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Report to the Colorado General Assembly:

**RECOMMENDATIONS FOR 1977
COMMITTEES ON:**

Business Affairs and Labor

Judiciary I

Local Government

Wildlife

Finance

Judiciary II

**Health, Environment, Welfare,
and Institutions II**

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VOLUME I

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 218

December, 1976

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OF THE
COLORADO GENERAL ASSEMBLY

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Clarence Quinlan
Ronald Strahle
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Ruben Valdez,
Speaker of the
House

* * * * *

The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

Colorado. Legislative Council.

COLORADO LEGISLATIVE COUNCIL
"RECOMMENDATIONS FOR 1977

(Volume I)

Committees on:

Business Affairs and Labor

Judiciary I

Local Government

Wildlife

Finance

Judiciary II

Health, Environment, Welfare, and Institutions II

Legislative Council

Report To The

Colorado General Assembly

Research Publication No. 218
December, 1976

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LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203
892-3521
AREA CODE 303

December 14, 1976

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REP. ROY E. WELLS

To Members of the Fifty-first Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1976. This year's report consolidates the individual reports of twelve committees into two volumes. The reports of the Committees on Health, Environment, Welfare, and Institutions I and School Finance are contained in two separate volumes.

Respectfully submitted,

/s/ Senator Fred Anderson
Chairman
Colorado Legislative Council

FA/pm

FOREWORD

The recommendations of the Colorado Legislative Council for 1977 appear in two consolidated volumes and two separate reports for the Committees on Health, Environment, Welfare, and Institutions I and School Finance. Volume I contains the reports of the Committees on Business Affairs and Labor, Judiciary I, Local Government, Wildlife, Finance, Judiciary II, and Health, Environment, Welfare, and Institutions II. Reports in Volume II are from the Committees on Education, Transportation, Legislative Procedures, State Affairs, and Agriculture.

In addition to the findings and recommendations resulting from studies assigned pursuant to House Joint Resolution No. 1047 (1976 session), several bills and other recommendations pertaining to the operation and organization of the executive departments are included with some of the committee reports. These recommendations resulted from a letter of October 20, 1976, from the Legislative Council to the executive directors of the principal executive departments, which stated, in part, "...[A]ll directors of principal departments are requested to submit to the appropriate Legislative Council interim committee(s) those statutory proposals they desire to have introduced during the 1977 Session of the General Assembly ... in line with the oversight function performed by each committee under the General Assembly's Joint Rule 25."

The Legislative Council reviewed the reports contained in this Volume I at its meeting on December 6, 1976. With the exception of Bills 22, 23, and 27 from the Committee on Health, Environment, Welfare, and Institutions II, the Legislative Council voted to transmit all bills included herein with favorable recommendation to the 1977 session of the General Assembly.

The committees and staff of the Legislative Council were assisted by the staff of the Legislative Drafting Office in the preparation of bills and resolutions. Michael T. Risner and John Lansdowne assisted the Committee on Business Affairs and Labor; Vincent C. Hogan and Douglas G. Brown, the Committee on Judiciary I; Gary E. Davis, the Committee on Local Government; Marcia Baird, the Committee on Wildlife; Terry W. Walker and John Lansdowne, the Committee on Finance; Rebecca C. Lennahan and Douglas G. Brown, the Committee on Judiciary II; and Sue Burch and Gary E. Davis, the Committee on Health, Environment, Welfare, and Institutions II.

December, 1976

Lyle C. Kyle
Director

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LEGISLATIVE COUNCIL
COMMITTEE ON BUSINESS AFFAIRS AND LABOR

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Research Associate

Linda Waldman
Senior Research Assistant

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

The Committee on Business Affairs and Labor was charged by House Joint Resolution No. 1047, 1976 session, with a study of the following topics:

- The impact utility rates have on residential consumers, in particular the poor and the elderly, the broad methodology used by the Public Utilities Commission (P.U.C.) in evaluating requests for electricity and gas rate increases; and the present use of alternative methods of setting rates including peak-load and lifeline pricing;
- The feasibility of the state self-insuring against the losses attributable to the risks inherent in the conduct of state government, including but not limited to general liability and fire and casualty losses and the public liability insurance problems of state agencies and political subdivisions. In connection with the feasibility of state self-insurance, an examination of: The state's current expenditures for insurance; the state's claim experience in recent years; self-insurance problems of other states; and with regard to public liability insurance problems, an exploration of alternatives which will ensure availability of public liability insurance at a reasonable cost; and
- A study of the paperwork requirements imposed on small businesses by state government with the purpose of decreasing the amount of forms and other paperwork required of businesses with annual profits of \$50,000 or less.

Public Utility Rate Methods

Testimony was received on declining block rates (the present rate setting method used by public utilities), peak-load pricing, and lifeline rates. Information was also received on the effect of electric and gas rates on consumers in general and on the poor and the elderly, in particular. The committee recognizes that although rising utility costs are becoming more of a burden to the consumer, information on the effect of the alternative methods of setting rates, such as peak-load and lifeline pricing, is limited nationally and no data are available on the effect such rates would have in Colorado. The committee was informed that the P.U.C. is in the process of holding hearings on, and studying, basic electrical rate design and structure.

Review of Rate Structures -- Bill 1

Bill 1 would require the P.U.C. to study alternative utility rate structures and report to the General Assembly prior to July 1 of each year.

Public Entity Self Insurance

The committee received testimony from individuals representing the state, municipalities, counties, the state Department of Education (with regard to school districts), and the insurance industry. The concerns voiced by public entities regarding insurance primarily came from municipalities and were centered around the availability of insurance and the rising cost of insurance premiums, particularly in the area of liability, errors and omissions, and false arrest insurance. Concern was also expressed about the constitutionality of the limitation on the maximum amounts that may be recovered against a public entity under the "Colorado Governmental Immunity Act."

No recommendation is submitted concerning a mandated self-insurance program at this time because of a lack of definitive data on the actual cost of such a program and because it appears that most public entities are still able to obtain the necessary insurance coverages, although the premiums might be high. Also, the availability and cost of insurance might change if there is a judicial determination on the constitutionality of the limits in the sovereign immunity act. However, the committee believes that a potentially severe problem does exist and, therefore, is recommending four bills to aid public entities in resolving their insurance problems.

Insurance Pools -- Bill 2

This bill would authorize public entities to pool their insurance coverage and would require that such pools be formed pursuant to intergovernmental agreement. Bill 2 would also provide that such pools would not be subject to the state insurance laws.

Self-Insurance Funds -- Bill 3

Concern was expressed that the local government budget law might impair the ability of certain public entities to establish a self-insurance fund in that the law may be construed as requiring a self-insurance fund to be rebudgeted every year. Bill 3 would provide that self-insurance funds established by public entities could be accumulated and held over for use in subsequent years.

Statute of Limitations -- Bill 4

Under current law, there is a two year statute of limitations on all actions against an insured officer, employee or agent of the state or a county, but no such limitation exists for a municipality. This bill would impose a two-year statute of limitations on tort actions brought against a public entity or public employee.

Termination of Insurance Policies -- Bill 5

Bill 5 would require insurers providing general liability insurance to homeowners, or general liability, errors and omissions, and false arrest insurance to governmental entities, or products liability insurance to companies to mail to the named insured notice of intent not to renew in advance of the termination date of such policy. The notice would be sent to the insured at the address shown in the policy of insurance.

Paperwork Requirements

Testimony was received from representatives of the Department of Revenue, the Office of Secretary of State, the Department of Labor and Employment, and members of the business community on the amount of paperwork generated by state agencies. The committee noted that although there has been an effort by some state agencies to reduce the proliferation of governmental paperwork, state agencies must continue to try and reduce the amount of unnecessary forms which are costly to both the state and the business community. In order to focus attention on this growing problem and to aid in resolving it, the committee recommends four bills.

Review and Elimination of Unnecessary Paperwork -- Bill 6

The committee recommends a joint resolution which would request the Governor to direct state departments to review and eliminate unnecessary paperwork and to provide a central location at which businesses could request information on required forms.

Sharing of Information and Mailings -- Bill 7

The bill states that it is the intent of the General Assembly that state departments share information, if possible, and eliminate duplicate mailings.

Filing of Corporate Reports -- Bill 8

Bill 8 would allow corporations to file corporate reports every three years rather than annually.

Penalty for Late Filing of Corporate Reports -- Bill 9

This bill would eliminate the penalty for late filing of corporation reports when forms required to be furnished by the Secretary of State are unavailable.

Departmental Oversight

At its September 27 meeting, the Legislative Council adopted the policy of requesting all directors of principal departments to submit to the appropriate legislative interim committee those statutory proposals they desire to have introduced during the 1977 session of the General Assembly. Pursuant to its oversight function, the committee reviewed proposals submitted by the Department of Regulatory Agencies and the Department of Labor and Employment.

Department of Regulatory Agencies

The committee reviewed and recommends eleven bills which were submitted by the Department of Regulatory Agencies. However, due to space considerations, these bills are not included in the report but a brief summary of the subject matter of the bills is listed below:

Board of cosmetology == would abolish the requirement that the board of cosmetology be composed of members from each congressional district and would limit the number which may be appointed from the Denver metropolitan area;

Citizenship requirements -- would abolish citizenship requirements for professions and occupations licensed by the state of Colorado, but would retain such requirements for board members;

Savings and loans -- would authorize reasonable charges for the establishment and maintenance of a Keogh Plan or individual retirement account and would increase the minimum balance below which a savings and loan association is not required to distribute earnings on share or deposit accounts;

Highway users tax fund == would direct that funds received from motor vehicle carriers be credited to the highway users tax fund;

Condominiums -- would define time share estates in condominium units and recognize each such estate as a separate interest in real property and would specify the treatment of time share estates for purposes of property taxation and other assessments, partition suits, and other matters;

Mobile homes -- would repeal the bonding requirements for a mobile home dealer's or salesman's license due to difficulty in obtaining such bonds. The committee requested the department to

investigate alternatives to the bonding requirements and submit them to the 1977 General Assembly;

Real estate - licensing -- would make various housekeeping amendments to the laws governing the licensing of real estate brokers and salesmen;

Real estate - continuing education -- would require applicants for renewal of a three-year real estate broker's or salesman's license to complete an amount of continuing education courses;

Real estate - reinstatement fees -- would require the payment of reinstatement fees, in addition to the regular renewal fees, for the reinstatement of all real estate licenses and would prohibit the reinstatement of any license after the passage of a period of time following the expiration of the license;

Compensation - board members -- would declare that a member of a licensing or examining board or commission is to be reimbursed only for necessary expenses, rather than for actual and necessary expenses; and

Appropriation -- would allow reimbursement to Robert Heron, a member of the passenger tramway safety board, for his investigatory work pursuant to a contract with the board.

Department of Labor and Employment 1/

Several bills prepared by the Department of Labor and Employment were reviewed by the committee. The bills were submitted too late to be reviewed by the Legislative Drafting Office prior to committee consideration. These bills are noted in this report as a courtesy to the Department of Labor and Employment but in no way should their inclusion be considered as having received committee approval.

State workmen's compensation fund -- would allow the state compensation insurance fund to use up to 15 percent of premiums for administrative purposes, rather than the present statutory 10 percent, but such increase would only be upon approval of various governmental officials; would require periodic review of the fund by the JBC;

1/ At its meeting on December 6, the Legislative Council transmitted Committee Bills Nos. 1 through 9, with favorable recommendation, to the 1977 session of the General Assembly. However, the Legislative Council concluded that the Department of Labor and Employment did not respond in a timely manner to the request from the Legislative Council dated October 20, 1976, that bills to change the organization and operation of the department be submitted for review by the committee.

Unemployment insurance -- would bring Colorado unemployment insurance laws into compliance with federal law;

Board compensation -- would allow reimbursement for members of the advisory council to the division of employment and training at \$50/day;

Women and children -- would amend the minimum wage law for women and children to include all persons; would delete the requirement that the division of labor protect worker's morals;

Colorado occupational safety and health -- would permit the exemption of small agricultural employers from COSH; would make COSH subject to the "Sunset Law" provisions;

Workmen's compensation -- would make amendments to the time frame for the payment of certain lump sum benefits; would allow certain permanent partial disability benefits to be paid in bi-weekly or monthly installments.

Other Items Considered by the Committee

During the interim, the committee also reviewed bills which were not in the original charge to the committee and therefore are not included with this report. These bills related to inheritance tax, tax liens on leased property, and refuse collectors. Briefly, the bills on inheritance tax would exempt payments from pension plans and military survivor's benefit plans from the inheritance tax and would revise the mortality table used for taxation purposes by revising the expectancy of life table and by increasing the discount rate used in the computation thereof.

The bill concerning tax liens on leased property would exempt certain property under lease from lien for income, sales, and use taxes and would require a memorandum of the lease to be filed with the Department of Revenue rather than the county clerk and recorder.

The bill on refuse collectors would create a new article and would spell out guidelines for refuse collectors and the Public Utilities Commission. This bill will be reviewed further by the P.U.C. It should be noted that the committee concluded that refuse collectors should continue to be regulated under the present statutes.

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

BILL 1

A BILL FOR AN ACT

1 CONCERNING THE PUBLIC UTILITIES COMMISSION, AND REQUIRING THE
2 COMMISSION TO CONDUCT A CONTINUING REVIEW OF RATE
3 STRUCTURES.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires the public utilities commission to conduct a continuing review of rate structures and to report to the general assembly annually.

4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Article 2 of title 40, Colorado Revised Statutes
6 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to
7 read:

8 40-2-117. Legislative declaration - commission to conduct
9 review of rate structures. (1) The general assembly hereby
10 finds and declares that:

11 (a) The prevailing rate structure for the sale of electric
12 power in this state may be outdated and may no longer serve the
13 best interests of the citizens of this state; and

14 (b) The commission is best qualified by reason of its

1 skills and experience to critically examine existing rate
2 structures, to analyze the available alternatives, and to propose
3 those criteria used to design rate structures which the
4 commission deems necessary and to implement those criteria.

5 (2) The commission shall conduct a continuing review of
6 electric power consumption levels and patterns and user rate
7 structures in this state. The review shall include but shall not
8 be limited to an examination of:

9 (a) Differences in electric power consumption levels and
10 patterns resulting from the following:

11 (I) Seasonal demand fluctuations;

12 (II) Time of day demand fluctuations;

13 (III) Evidence or estimates of change in consumption
14 patterns due to change in price; and

15 (IV) Income levels of users;

16 (b) Electric power rate structures currently in effect in
17 this state and rate structures proposed or in effect in other
18 parts of the country;

19 (c) The relative advantages and disadvantages to consumers
20 of the block rate system, lifeline service, peak hour schedules,
21 metering devices, and other methods which may be used to
22 structure rate schedules.

23 (3) The commission shall formulate, from time to time when
24 the commission deems appropriate, new or revised criteria for
25 evaluating and approving rate schedules submitted by public
26 utilities which supply electric power in this state and which are
27 subject to rate regulation by the commission. Those criteria

1 shall be designed to:

2 (a) Eliminate any inequities to users resulting from
3 existing rate structures;

4 (b) Encourage conservation of electric power, thereby
5 conserving nonrenewable natural resources, including
6 consideration of the effect of eliminating or modifying the
7 commonly used declining block rate structures;

8 (c) Discourage use of electric power during periods of peak
9 demand or shift usage to other periods in order to better utilize
10 existing power generating facilities and to avoid or defer the
11 need for new generating facilities;

12 (d) Assure that rates are just, reasonable, and sufficient
13 as required by law.

14 (4) On or before July 1 of each year, the commission shall
15 furnish the general assembly with a written report of its
16 findings and recommendations made as a result of the review
17 required by this section.

18 SECTION 2. Safety clause. The general assembly hereby
19 finds, determines, and declares that this act is necessary for
20 the immediate preservation of the public peace, health, and
21 safety.

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

BILL 2

A BILL FOR AN ACT

1 CONCERNING INSURANCE POOLS, AND AUTHORIZING THE FORMATION THEREOF
2 BY PUBLIC ENTITIES.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes public entities to pool their insurance coverage and requires such pools to be formed pursuant to intergovernmental agreement. States that insurance pools are not subject to state insurance laws.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. The introductory portion to 24-10-115 (1),
5 Colorado Revised Statutes 1973, is amended to read:

6 24-10-115. Authority for public entities other than the
7 state to obtain insurance. (1) A public entity, other than the
8 state, ~~either--by--itself--or--in--conjunction--with--any--one--or--more~~
9 ~~public-entities~~ may:

10 SECTION 2. Article 10 of title 24, Colorado Revised
11 Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to
12 read:

13 24-10-115.5. Authority for public entities to pool

1 insurance coverage. (1) Public entities may cooperate with one
2 another to form an insurance pool to provide all or part of the
3 insurance coverage authorized by this article for the cooperating
4 public entities. Any such insurance pool shall be formed
5 pursuant to the provisions of part 2 of article 1 of title 29,
6 C.R.S. 1973.

7 (2) Any insurance pool authorized by subsection (1) of this
8 section shall not be construed to be an insurance company nor
9 otherwise subject to the provisions of the laws of this state
10 regulating insurance or insurance companies.

11 SECTION 3. Safety clause. The general assembly hereby
12 finds, determines, and declares that this act is necessary for
13 the immediate preservation of the public peace, health, and
14 safety.

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

BILL 3

A BILL FOR AN ACT

1 CONCERNING SELF-INSURANCE FUNDS, AND AUTHORIZING THE ACCUMULATION
2 THEREOF.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

States that public entities can accumulate a self-insurance fund without rebudgeting the entire fund.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 24-10-115, Colorado Revised Statutes 1973, is
5 amended BY THE ADDITION OF A NEW SUBSECTION to read:

6 24-10-115. Authority for public entities other than the
7 state to obtain insurance. (5) Subject to section 29-1-110,
8 C.R.S. 1973, a self-insurance fund established by a public entity
9 shall not be construed to be unexpended funds for budgetary
10 purposes and may be accumulated and held over for use in
11 subsequent years.

12 SECTION 2. Safety clause. The general assembly hereby
13 finds, determines, and declares that this act is necessary for
14 the immediate preservation of the public peace, health, and
15 safety.

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

BILL 4

A BILL FOR AN ACT

1 CONCERNING ACTIONS BROUGHT AGAINST A PUBLIC ENTITY OR PUBLIC
2 EMPLOYEE, AND IMPOSING A STATUTE OF LIMITATIONS THEREON.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Imposes a two-year statute of limitations on tort actions brought against a public entity or public employee.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 24-10-109 (5), Colorado Revised Statutes 1973,
5 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 24-10-109. Notice required - contents - to whom given -
7 limitations. (5) Any action arising against a public entity or
8 public employee pursuant to this article or section 29-5-111,
9 C.R.S. 1973, shall be commenced within two years after the
10 accrual of such action, or it shall be forever barred. A claim
11 for injury shall be considered to accrue on the date the injury
12 is known or should have been known by the exercise of reasonable
13 diligence.

14 SECTION 2. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary for
2 the immediate preservation of the public peace, health, and
3 safety.

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

BILL 5

A BILL FOR AN ACT

1 CONCERNING THE TERMINATION OF CERTAIN POLICIES OF INSURANCE.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires insurers providing general liability insurance to homeowners and governmental entities and providing products liability insurance to companies to mail to the named insured, at the address shown in the policy of insurance, notice of intent not to renew in advance of the termination date of such policy.

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. Part 1 of article 4 of title 10, Colorado
4 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF
5 A NEW SECTION to read:

6 10-4-110. Notice of intent prior to nonrenewal of certain
7 policies of insurance. (1) No insurer shall refuse to renew a
8 homeowners liability insurance policy or an insurance policy of
9 fire and extended coverage on a dwelling which does not exceed
10 four family units unless such insurer or its agent mails or
11 delivers to the named insured, at the address shown in the
12 policy, at least twenty days in advance notice of its intention
13 not to renew.

1 (2) No insurer shall refuse to renew a policy of general
2 comprehensive liability insurance covering a governmental entity
3 in the state unless such insurer or its agent mails or delivers
4 to the named insured, at the address shown in the policy, at
5 least sixty days in advance notice of its intention not to renew.

6 (3) No insurer shall refuse to renew a policy of products
7 liability insurance unless such insurer or its agent mails or
8 delivers to the named insured, at the address shown in the
9 policy, at least sixty days in advance notice of its intention
10 not to renew.

11 (4) The provisions of this section shall not apply:

12 (a) If the insurer has already manifested its willingness
13 to renew;

14 (b) In case of nonpayment of premium;

15 (c) If the insured fails to pay any premium deposit
16 required by the insurer for renewal.

17 (5) Notwithstanding the failure of an insurer to comply
18 with this section, the policy shall terminate on the effective
19 date of any other insurance policy with respect to any insurable
20 interest designated in both policies.

21 (6) Renewal of a policy shall not constitute a waiver or
22 estoppel with respect to grounds for cancellation which existed
23 before the effective date of such renewal.

24 SECTION 2. Effective date. This act shall take effect July
25 1, 1977.

26 SECTION 3. Safety clause. The general assembly hereby
27 finds, determines, and declares that this act is necessary for
28 the immediate preservation of the public peace, health, and
29 safety.

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

BILL 6

____ JOINT RESOLUTION NO.

1 WHEREAS, Over the years, forms required by the
2 departments of the executive branch of government have
3 proliferated without coordination or adequate review of the
4 need for or the value of the information gathered; and

5 WHEREAS, Many of such forms may no longer be necessary
6 or are duplicated by other departments; and

7 WHEREAS, This situation has created a bureaucratic
8 nightmare for small business in Colorado which requires many
9 business people to seek outside assistance in completing or
10 locating the correct forms and which adds to the cost of
11 starting or operating a business; and

12 WHEREAS, The vast amount of paperwork contributes to the
13 inefficiency and cost of operating state government; and

14 WHEREAS, It is more appropriate for the executive branch
15 of government to resolve this problem by administrative
16 procedures than for the legislative branch to take action;
17 now, therefore,

18 Be It Resolved by the (Senate) (House of Representatives)
19 of the Fifty-first General Assembly of the State of Colorado,
20 the (House of Representatives) (Senate) concurring herein:

21 That we, the members of the Fifty-first General Assembly,

1 request that the Governor issue a directive to all state
2 departments asking them to undertake a review of their
3 paperwork requirements and to eliminate unnecessary forms,
4 combine duplicate forms, and simplify form language. In
5 addition, we request the Governor to assign personnel to
6 coordinate the efforts of the state departments, to plan for a
7 continuing form review process, and to provide a central
8 location at which business people can request information on
9 state paperwork requirements. If it is determined that
10 legislation is needed, such legislation shall be recommended
11 to the General Assembly.

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

BILL 7

A BILL FOR AN ACT

1 REQUIRING PRINCIPAL DEPARTMENTS TO SHARE INFORMATION AND
2 MAILINGS.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

States that principal departments are to share information and to eliminate multiple mailings.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Article 2 of title 24, Colorado Revised Statutes
5 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

6 24-2-108. Departments to share information and mailings.

7 For the convenience of the citizens of this state and to promote
8 economy in state government, it is the intent of the general
9 assembly that all principal departments, when feasible and not
10 contrary to federal law, shall share as much information as
11 possible and, when feasible and desirable to do so, shall
12 eliminate multiple mailings to addressees.

13 SECTION 2. Safety clause. The general assembly hereby
14 finds, determines, and declares that this act is necessary for
15 the immediate preservation of the public peace, health, and
16 safety.

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

BILL 8

A BILL FOR AN ACT

1 CONCERNING CORPORATIONS, AND RELATING TO THE FILING OF CORPORATE
2 REPORTS.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Allows corporations to file corporate reports every 3 years instead of annually.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 7-3-112 (2), Colorado Revised Statutes 1973, is
5 amended to read:

6 7-3-112. Process -- service on corporation. (2) If a
7 corporation fails to appoint a registered agent or to maintain a
8 registered agent in this state, or if its registered agent cannot
9 with reasonable diligence be found at the registered office, then
10 the secretary of state shall be an agent of such corporation upon
11 whom any such process, notice, or demand may be served. Service
12 on the secretary of state of any such process, notice, or demand
13 shall be made by delivering to and leaving with him, or with the
14 deputy secretary of state, or with any assistant in his office a

1 copy of such process, notice, or demand. The person so serving
2 the secretary of state shall immediately send a notice of such
3 service and a copy of the process, notice, or demand, by
4 registered or certified mail, return receipt requested, addressed
5 to the corporation at its registered office, or, if it has no
6 registered office, to the address shown on the last annual
7 CORPORATE report filed by it, or to such other address as may be
8 known to such person. Such service on the corporation shall be
9 complete upon receipt by such person of the corporation's return
10 receipt or, if the corporation refuses to accept such registered
11 or certified mail, upon receipt by such person of such mail with
12 the corporation's refusal to accept indicated thereon and, if
13 such process, notice, or demand has issued in a court proceeding,
14 upon filing with the clerk of such court of such return receipt
15 or such returned mail, together with the affidavit of the person
16 so serving the secretary of state of his compliance with this
17 section. In lieu of mailing such notice as aforesaid, such
18 service shall be complete upon service on the corporation of such
19 notice and such copy, if found within the state, by a person duly
20 qualified to serve legal process, or, if found without the state,
21 by the sheriff or deputy sheriff in the name of the sheriff of
22 the county in any state in which such corporation is found, or by
23 a United States marshal if the corporation is found in a United
24 States territory or district, or by a United States consul or by
25 some person of legal age appointed by such consul if the
26 corporation is found in a foreign country, or by any licensed,
27 practicing attorney, and, if such process, notice, or demand has

1 issued in a court proceeding, upon filing with the clerk of such
2 court of proof of such service.

3 SECTION 2. 7-8-108 (1), Colorado Revised Statutes 1973, as
4 amended, is amended to read:

5 7-8-108. Filing of articles of dissolution - certificate of
6 dissolution. (1) Duplicate originals of such articles of
7 dissolution shall be delivered to the secretary of state. If the
8 secretary of state finds that such articles of dissolution
9 conform to law, he shall, when all fees have been paid as in this
10 code prescribed: Endorse on each of such duplicate originals the
11 word "Filed" and the month, day, and year of the filing thereof;
12 file one of such duplicate originals in his office; AND issue a
13 certificate of dissolution to which he shall affix the other
14 duplicate original. A corporation may file articles of
15 dissolution by May--~~1~~ THE DATE ESTABLISHED PURSUANT TO SECTION
16 7-10-102 without filing an-~~annual~~ A CORPORATE report and without
17 paying the license tax due in the year of dissolution, if such
18 corporation has paid all fees and taxes for the preceding year
19 ending December 31.

20 SECTION 3. 7-9-112 (1) (a), Colorado Revised Statutes 1973,
21 is amended to read:

22 7-9-112. Revocation of certificate of authority. (1)
23 (a) The corporation has failed to file its ~~annual~~ CORPORATE
24 report within the time required by this code or has failed to pay
25 any fees or penalties prescribed by this code within sixty days
26 after notice;

27 SECTION 4. 7-9-112 (2), Colorado Revised Statutes 1973, as

1 amended, is amended to read:

2 7-9-112. Revocation of certificate of authority. (2) No
3 certificate of authority of a foreign corporation shall be
4 revoked by the secretary of state unless he has given the
5 corporation not less than sixty days' notice thereof by mail
6 addressed to its registered office in this state or unless said
7 corporation fails to appoint and maintain a registered agent in
8 this state to its registered office stated in its application for
9 certificate of authority and unless the corporation fails prior
10 to revocation to file such ~~annual~~ CORPORATE report, or pay such
11 fees or penalties, or file the required statement of change of
12 registered agent or registered office, file such articles of
13 amendment or articles of merger, or correct such
14 misrepresentation.

15 SECTION 5. 7-9-116 (2), Colorado Revised Statutes 1973, is
16 amended to read:

17 7-9-116. Filing of application for withdrawal - certificate
18 of withdrawal. (2) A foreign corporation may file an
19 application for withdrawal by May-~~1~~ THE DATE ESTABLISHED PURSUANT
20 TO SECTION 7-10-102 without filing an-~~annual~~ A CORPORATE report
21 and without paying the fees due in the year of withdrawal if the
22 corporation has paid all fees for the preceding year ending
23 December 31.

24 SECTION 6. The introductory portion to 7-10-101 (1),
25 Colorado Revised Statutes 1973, is amended to read:

26 7-10-101. Corporate report of domestic and foreign
27 corporations. (1) Each domestic corporation and each foreign

1 corporation authorized to transact business in this state shall
2 file, within the time prescribed by this code, an annual A
3 CORPORATE report setting forth:

4 SECTION 7. 7-10-101 (2), Colorado Revised Statutes 1973, as
5 amended, is amended to read:

6 7-10-101. Corporate report of domestic and foreign
7 corporations. (2) The ~~annual~~ CORPORATE report shall be made on
8 forms prescribed and furnished by the secretary of state, and the
9 information therein contained shall be given as of the date of
10 the execution of the report. However, the information required
11 by paragraphs (e), (f), and (g) of subsection (1) of this section
12 may be given as of a date earlier than the date of the report,
13 but in no event earlier than the date of the close of the
14 corporation's fiscal year which ends in the calendar year ending
15 immediately prior to the filing of the report. The report shall
16 be executed by the corporation by one of the following: its
17 president, a vice-president, secretary, an assistant secretary,
18 or treasurer, or, if the corporation is in the hands of a
19 receiver or trustee, it shall be executed by him on behalf of the
20 corporation. This report shall contain or be verified by a
21 written declaration that it is made under the penalties
22 prescribed in section 7-10-112.

23 SECTION 8. 7-10-102 (1), Colorado Revised Statutes 1973, as
24 amended, is amended, and the said 7-10-102 is further amended BY
25 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

26 7-10-102. Filing of corporate report of domestic and
27 foreign corporations - disposition of fees. (1) The ~~annual~~

1 CORPORATE report of a domestic or foreign corporation shall be
2 delivered to the secretary of state ~~between-January-1-and-May-1~~
3 ~~of-each-year-except-that-the-first-annual-report-of--a--domestic~~
4 ~~or-foreign-corporation-shall-be-filed-between-January-1-and-May-1~~
5 ~~of-the-year-next~~ NOT LATER THAN THIRTY DAYS AFTER THE ANNIVERSARY
6 DATE OF THE ISSUANCE OF ITS CERTIFICATE OF INCORPORATION OR ITS
7 CERTIFICATE OF AUTHORITY IN THE THIRD YEAR succeeding the
8 calendar year in which its certificate of incorporation or its
9 certificate of authority, as the case may be, was issued by the
10 secretary of state. Proof to the satisfaction of the secretary
11 of state that prior to May-1 SUCH DATE such report was deposited
12 in the United States mail in a sealed envelope, properly
13 addressed, with postage prepaid, shall be deemed a compliance
14 with this requirement. If the secretary of state finds that a
15 report conforms to the requirements of this code, he shall file
16 the same. If he finds that it does not so conform, he shall
17 promptly return the same to the corporation for any necessary
18 corrections.

19 (3) For the calendar years 1978, 1979, and 1980, the
20 secretary of state shall prepare a list of all foreign and
21 domestic corporations authorized to transact business in this
22 state prior to July 1, 1977. The secretary of state shall divide
23 this list into three approximately equal groups. Of these
24 groups, one group shall file the corporate report on a date
25 specified by the secretary of state in 1978, one group shall file
26 on the same date in 1979, and one group shall file on the same
27 date in 1980. Thereafter, the corporate reports shall be filed

1 every three years on said specified date.

2 (4) When a change in the information required to be
3 included in the corporate report occurs in the interim between
4 the time for filing corporate reports, each domestic and foreign
5 corporation authorized to transact business in this state shall
6 notify the secretary of state of such change.

7 SECTION 9. 7-10-104 (1) (c) (II) and (1) (e) (II), Colorado
8 Revised Statutes 1973, as amended, are amended to read:

9 7-10-104. Fees for filing documents and for certificates;
10 other charges. (1) (c) (III) ~~Annual~~ CORPORATE report of a
11 domestic corporation;

12 (e) (II) ~~Annual~~ CORPORATE report of a foreign corporation.

13 SECTION 10. 7-10-110 (2), Colorado Revised Statutes 1973, as
14 amended, is amended to read:

15 7-10-110. Collection and payment of fees. (2) The fees
16 payable by foreign corporations under the provisions of section
17 7-10-104 (1) (e) shall be paid at the time the ~~annual~~ CORPORATE
18 report is filed as provided in section 7-10-102. If such fees
19 assessed against any domestic corporation subject to the
20 provisions of this code, together with all penalties assessed
21 thereon, are not paid to the secretary of state on or before
22 December 31 in the year in which the fees are due and payable,
23 the secretary of state shall notify that corporation in writing
24 on or before May 1 of the following year of the fees and
25 penalties due and payable.

26 SECTION 11. 7-10-111 (1), Colorado Revised Statutes 1973,
27 as amended, is amended to read:

7-10-111. Penalties imposed upon corporations. (1) Each domestic corporation that fails or refuses to file its ~~annual~~ CORPORATE report and pay the fee prescribed therefor and each foreign corporation that fails or refuses to file its ~~annual~~ CORPORATE report and pay the fee prescribed therefor shall be subject to a civil penalty of twenty-five dollars. The amount of any unpaid report fee and the amount of the penalty shall be separately stated in any notice to the corporation with respect thereto.

SECTION 12. 7-20-105 (1) and (2), Colorado Revised Statutes 1973, are amended to read:

7-20-105. Existing corporations - failure to file reports and designate registered offices and agents - dissolution.

(1) Beginning January 1, 1970, corporations which were organized prior to January 1, 1968, and which could, if they so elected, elect to be governed by articles 20 to 29 of this title, pursuant to sections 7-21-111 to 7-21-114, but which corporations have not done so, shall nevertheless be thereafter subject to section 7-28-101 and required to file ~~annual~~ CORPORATE reports and pay the ~~annual~~ filing fees therefor as provided in said articles. Such corporations shall also, beginning January 1, 1970, be required to designate and maintain thereafter registered offices and registered agents as provided in section 7-22-104. Said registered agents shall be the agents for service of process on said corporations as provided in section 7-22-106, and, in the event such registered agent is not appointed by May 1, 1970, or maintained thereafter, the secretary of state shall be the agent

1 for service of process of such corporation as set forth in
2 section 7-22-106. The initial designation of such registered
3 office and agent shall be made in such corporation's initial
4 ~~annual~~ CORPORATE report and may be changed thereafter in the same
5 manner as provided for other corporations subject to articles 20
6 to 29 of this title.

7 (2) In addition to filing the ~~annual~~ CORPORATE reports and
8 designating the registered office and agent required by
9 subsection (1) of this section, each corporation whose articles,
10 affidavit of incorporation, or other basic corporate charter, by
11 whatever name denominated, is not on file in the office of the
12 secretary of state shall file a certified copy of such articles,
13 affidavit of incorporation, or other basic corporate charter in
14 the office of the secretary of state at the time of filing the
15 first ~~annual~~ CORPORATE report of such corporation. Such
16 certified copy may be secured from any clerk or recorder with
17 whom the instrument may be filed or recorded.

18 SECTION 13. 7-21-114 (1) (a), Colorado Revised Statutes
19 1973, is amended to read:

20 7-21-114. Effect of certificate of acceptance. (1)

21 (a) The first ~~annual~~ CORPORATE report of the corporation so
22 accepting the benefits of said articles shall be filed between
23 the first day of January and the first day of May of the year
24 next succeeding the calendar year in which the certificate of
25 acceptance has been issued.

26 SECTION 14. 7-22-105 (3), Colorado Revised Statutes 1973,
27 is amended to read:

1 7-22-105. Change of registered office or registered agent.
2 (3) Any registered agent of a corporation may resign as such
3 agent upon filing a written notice executed in duplicate, with
4 the secretary of state, who shall forthwith mail a copy thereof
5 to the corporation in care of an officer or director who is not
6 the resigning registered agent at the address of the officer as
7 shown by the most recent ~~annual~~ CORPORATE report of the
8 corporation or, if no ~~annual~~ CORPORATE report has been filed, as
9 shown by the articles of incorporation of the corporation. The
10 appointment of such agent shall terminate upon the expiration of
11 thirty days after receipt of this notice by the secretary of
12 state. Upon the expiration of thirty days after the mailing of
13 such notice, the secretary of state shall prepare a list of such
14 corporations that have not filed a change of registered office or
15 registered agent statement replacing the registered agent who
16 resigned and shall publish the same in this state in a newspaper
17 of general circulation for one issue. Upon said publication
18 being completed and a proof of publication being filed thereof
19 with the secretary of state by such newspaper, such corporation
20 shall thereupon be deemed defunct and inoperative and subject to
21 the provisions of sections 7-25-111 and 7-28-102. In addition to
22 other obligations under this article, reinstatement because of
23 action under this section must include the filing of the due
24 registered office and registered agent statements.

25 SECTION 15. 7-22-106 (2), Colorado Revised Statutes 1973,
26 is amended to read:

27 7-22-106. Service of process on corporation. (2) If a

1 corporation fails to appoint a registered agent or to maintain a
2 registered agent in this state or if its registered agent cannot
3 with reasonable diligence be found at the registered office, then
4 the secretary of state shall be an agent of that corporation upon
5 whom any process, notice, or demand may be served. Service on
6 the secretary of state of any such process, notice, or demand
7 shall be made by delivering to and leaving with him or with any
8 deputy or assistant in his office a copy of the process, notice,
9 or demand. The person so serving the secretary of state shall
10 immediately send a notice of such service and a copy of the
11 process, notice, or demand by registered or certified mail,
12 return receipt requested, addressed to the corporation at its
13 registered office, or, if it has no registered office, to the
14 address shown on the last ~~annual~~ CORPORATE report filed by it, or
15 to such other address as may be known to such person. Such
16 service on the corporation shall be complete upon receipt by such
17 person of the corporation's return receipt or, if the corporation
18 refuses to accept this registered or certified mail, upon receipt
19 by such person of the returned mail with the corporation's
20 refusal to accept indicated thereon and, if the process, notice,
21 or demand has issued in a court proceeding, upon filing with the
22 clerk of the court of the return receipt or returned mail,
23 together with the affidavit of the person so serving the
24 secretary of state of his compliance with this section. In lieu
25 of mailing a notice as aforesaid, such service shall be complete
26 upon service of the notice and copy on the corporation, if found
27 within the state, by a person duly qualified to serve legal

1 process, or, if found without the state, by the sheriff or deputy
2 sheriff in the name of the sheriff of the county in any state in
3 which such corporation is found, or by a United States marshal if
4 the corporation is found in a United States territory or
5 district, or by a United States consul or by some person of legal
6 age appointed by such consul, if the corporation is found in a
7 foreign country, or by any licensed, practicing attorney, and, if
8 the process, notice, or demand has issued in a court proceeding,
9 upon filing with the clerk of such court of proof of the service.

10 SECTION 16. 7-26-108 (2), Colorado Revised Statutes 1973,
11 is amended to read:

12 7-26-108. Filing of articles of dissolution. (2) A
13 corporation may file articles of dissolution by May-~~1~~ THE DATE
14 ESTABLISHED PURSUANT TO SECTION 7-28-102 without filing an-annual
15 A CORPORATE report and without paying the fees or assessments due
16 in the year of dissolution if such corporation has paid all fees
17 and assessments for the preceding years ending December 31.

18 SECTION 17. 7-26-112 (3), Colorado Revised Statutes 1973, is
19 amended to read:

20 7-26-112. Notification to attorney general. (3) Every
21 such certificate from the secretary of state to the attorney
22 general pertaining to the failure of a corporation to file an
23 annual A CORPORATE report shall be taken and received as prima
24 facie evidence of the facts therein stated.

25 SECTION 18. 7-27-109 (3), Colorado Revised Statutes 1973,
26 is amended to read:

27 7-27-109. Change of registered office or registered agent

1 ~~of foreign corporation.~~ (3) Any registered agent in this state
2 appointed by a foreign corporation may resign as such agent upon
3 filing a written notice thereof, executed in duplicate, with the
4 secretary of state who shall forthwith mail a copy thereof to the
5 foreign corporation at its principal office in the state or
6 country under the laws of which it is incorporated as shown by
7 its most recent ~~annual~~ CORPORATE report or, if no ~~annual~~
8 CORPORATE report has been filed, on the application for
9 certificate of authority of the corporation. The appointment of
10 such agent shall terminate upon the expiration of thirty days
11 after receipt of such notice by the secretary of state.

12 SECTION 19. 7-27-115 (1) (a) and (2), Colorado Revised
13 Statutes 1973, are amended to read:

14 7-27-115. Revocation of certificate of authority. (1)
15 (a) The corporation has failed to file its ~~annual~~ CORPORATE
16 report within the time required by section 7-28-102 or has failed
17 to pay when due any fees, charges, or penalties prescribed by
18 articles 20 to 29 of this title;

19 (2) No certificate of authority of a foreign corporation
20 shall be revoked by the secretary of state unless he has given
21 the corporation not less than sixty days' notice thereof by mail
22 addressed to its registered office in this state and the
23 corporation fails prior to revocation to file such ~~annual~~
24 CORPORATE report, or pay any fees, charges, or penalties, or file
25 the required statement of change of registered agent or
26 registered office, or file such articles of amendment or articles
27 of merger, or correct such misrepresentation.

1 SECTION 20. The introductory portion to 7-28-101 (1) and
2 7-28-101 (2), Colorado Revised Statutes 1973, are amended to
3 read:

4 7-28-101. Corporate report of domestic and foreign
5 corporations. (1) Each domestic corporation and each foreign
6 corporation authorized to conduct affairs in this state shall
7 file within the time prescribed by section 7-28-102 an ~~annual~~ A
8 CORPORATE report setting forth:

9 (2) Such ~~annual~~ CORPORATE report shall be made on forms
10 prescribed and furnished by the secretary of state, and the
11 information therein contained shall be given as of the date of
12 the execution of the report. It shall be executed by the
13 corporation by its president, a vice-president, secretary, an
14 assistant secretary, or treasurer, or, if the corporation is in
15 the hands of a receiver or trustee, it shall be executed on
16 behalf of the corporation by such receiver or trustee.

17 SECTION 21. 7-28-102 (1), (2), and (5), Colorado Revised
18 Statutes 1973, are amended, and the said 7-28-102 is further
19 amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to
20 read:

21 7-28-102. Filing of corporate reports - failure to file
22 reports. (1) Such ~~annual~~ CORPORATE report of a domestic or
23 foreign corporation shall be delivered to the secretary of state
24 ~~between--January--1--and--May--1--of--each--year--except--that--the--first~~
25 ~~annual--report--of--a--domestic--or--foreign--corporation--shall--be--filed~~
26 ~~between--January--1--and--May--1--of--the--year--next~~ NOT LATER THAN
27 THIRTY DAYS AFTER THE ANNIVERSARY DATE OF THE ISSUANCE OF ITS

1 CERTIFICATE OF INCORPORATION OR ITS CERTIFICATE OF AUTHORITY IN
2 THE THIRD YEAR succeeding the calendar year in which its
3 certificate of incorporation or its certificate of authority, as
4 the case may be, was issued by the secretary of state. Proof to
5 the satisfaction of the secretary of state that prior to May--1
6 SAID DATE such report was deposited in the United States mail in
7 a sealed envelope properly addressed, with postage prepaid, shall
8 be deemed compliance with this requirement. If the secretary of
9 state finds that the report conforms to the requirements of
10 articles 20 to 29 of this title, he shall file the same. If he
11 finds that it does not so conform, he shall promptly return the
12 same to the corporation for any necessary corrections. in--which
13 event--the--penalties--prescribed--in--section--7-28-195--(1)--for
14 failure-to-file-such-report-within-the-time-provided-for-in--this
15 section--shall-not-apply-if-the-report-is-corrected-to-conform-to
16 the--requirements--of--section--7-28-195--and--returned--to--the
17 secretary-of-state-in-sufficient-time-to-be-filed-prior-to-August
18 1-of-the-year-in-which-it-is-due

19 (2) If after-September-30-of-each-year, any corporation has
20 failed for--two--consecutive--years to make and file its annual
21 CORPORATE report, the secretary of state shall prepare a list of
22 such corporations and shall publish the same in this state for
23 one issue in a newspaper of general circulation.

24 (5) Any defunct corporation shall be reinstated and revived
25 and become operative by the payment of five dollars, plus an
26 additional fifteen dollars for each year-an-annual CORPORATE
27 report was not filed prior to the year of reinstatement, and

1 by filing the ~~annual~~ CURRENT CORPORATE report ~~for-the-current~~ ON
2 A DATE SPECIFIED BY THE SECRETARY OF STATE DURING THE year in
3 which the corporation is being reinstated, with the late filing
4 penalty of ten dollars for ~~that-current-year~~ SUCH report, when
5 ~~filed--after--May--1,~~ or, in lieu of filing ~~the-current-year~~ SUCH
6 report, by filing an election to accept, if applicable to that
7 corporation, and it shall be issued a certificate of
8 reinstatement. The declaration of such corporation as defunct and
9 inoperative shall not take away or impair any remedy given
10 against such corporation or its members, directors, or officers
11 for any liability incurred prior thereto.

12 (6) For the calendar years 1978, 1979, and 1980, the
13 secretary of state shall prepare a list of all foreign and
14 domestic corporations authorized to transact business in this
15 state prior to July 1, 1977. The secretary of state shall divide
16 this list into three approximately equal groups. Of these
17 groups, one group shall file the corporate report on a date
18 specified by the secretary of state in 1978, one group shall file
19 on the same date in 1979, and one group shall file on the same
20 date in 1980. Thereafter, the corporate reports shall be filed
21 every three years on said specified date.

22 (7) When a change in the information required to be
23 included in the corporate report occurs in the interim between
24 the time for filing corporate reports, each domestic and foreign
25 corporation authorized to transact business in this state shall
26 notify the secretary of state of such change.

27 SECTION 22. 7-28-103 (1) (c), Colorado Revised Statutes

1 1973, is amended to read:

2 7-28-103. Fees for filing documents and issuing
3 certificates. (1) (o) Filing any other statement or report,
4 including ~~an-annual~~ A CORPORATE report of a domestic or foreign
5 corporation, five dollars.

6 SECTION 23. 7-28-105 (1), Colorado Revised Statutes 1973,
7 is amended to read:

8 7-28-105. Penalties imposed upon corporation. (1) Each
9 corporation, domestic or foreign, that fails or refuses to file
10 its ~~annual~~ CORPORATE report ~~for any year~~ within the time
11 prescribed by section ~~7-28-101~~ 7-28-102 shall be subject to a
12 penalty of ten dollars to be assessed by the secretary of state.

13 SECTION 24. Effective date. This act shall take effect
14 July 1, 1977.

15 SECTION 25. Safety clause. The general assembly hereby
16 finds, determines, and declares that this act is necessary for
17 the immediate preservation of the public peace, health, and
18 safety.

COMMITTEE ON BUSINESS AFFAIRS AND LABOR

BILL 9

A BILL FOR AN ACT

1 CONCERNING THE FILING OF REPORTS BY CORPORATIONS.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Declares that no penalty for late filing is to be imposed when forms required to be furnished by the secretary of state are unavailable.

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 7-10-111 (1), Colorado Revised Statutes 1973, as
4 amended, is amended to read:

5 7-10-111. Penalties imposed upon corporations. (1) Each
6 domestic corporation that fails or refuses to file its annual
7 report and pay the fee prescribed therefor and each foreign
8 corporation that fails or refuses to file its annual report and
9 pay the fee prescribed therefor shall be subject to a civil
10 penalty of twenty-five dollars; EXCEPT THAT NO PENALTY SHALL BE
11 IMPOSED IF THE FORMS REQUIRED TO BE FURNISHED BY THE SECRETARY OF
12 STATE PURSUANT TO SECTION 7-5-118 ARE UNAVAILABLE AND SUCH
13 UNAVAILABILITY RESULTS IN FAILURE TO FILE WITHIN THE TIME
14 PRESCRIBED BY THIS CODE. The amount of any unpaid report fee and

1 the amount of the penalty shall be separately stated in any
2 notice to the corporation with respect thereto.

3 SECTION 2. Safety clause. The general assembly hereby
4 finds, determines, and declares that this act is necessary for
5 the immediate preservation of the public peace, health, and
6 safety.

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Earl Thaxton Senior Analyst	Charles S. Brown Senior Research Assistant
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*Resigned November 13, 1976, due to appointment to the Joint Budget Committee.

LEGISLATIVE COUNCIL
COMMITTEE ON JUDICIARY I

The Committee on Judiciary I was established by the General Assembly to consider various aspects of Colorado's judicial merit selection system and the administrative and rule-making procedures of the judicial branch. Specific areas of committee inquiry, as set forth in the directive to the committee, included: a) study of current procedures for the retirement and removal of justices and judges and the authority of the Judicial Qualifications Commission; b) investigation of mechanisms for providing greater citizen input into the judicial nominating process; c) inquiry into the advisability of increasing the number of persons who can be nominated for appointment to fill vacancies on the county, district, and appellate court benches; d) study of the Constitutional provisions governing the election or retention of judges and justices; e) examination of the relationship of the legislative and judicial branches in determining matters of substance and procedure; and f) consideration of the proper roles of part-time judges, referees, and hearing masters in the judicial system.

In addition, pursuant to the provisions of H.J.R. 1047, a nine-member advisory committee consisting of three persons appointed by the Chief Justice, three persons appointed by the Colorado Bar Association, and three persons appointed by the Governor, was established to assist the committee in its deliberations. The role of the advisory committee in the study procedure was twofold: 1) to interact with the committee during committee meetings in defining areas of concern, issues to be resolved, and in the examination of witnesses; and 2) to independently develop a set of legislative recommendations for committee consideration.

The committee held five meetings throughout the interim. In addition to attendance at regular committee meetings, advisory committee members held extra meetings for the purpose of formulating its recommendations.

The Colorado Judicial Merit Selection System

The plan to replace partisan election of judges and justices with a judicial merit selection system was initiated by petition and placed before the voters as Amendment No. 3 at the 1966 general election. The amendment contained three primary elements: 1) establishment of nominating commissions to supply the names of the best qualified candidates for a judicial office to the Governor for his appointment of one such candidate; 2) a provision that judges and justices run on their records at the general election with the single question of whether such person shall be retained in office -- "Yes" or "No"; and 3) creation of a judicial qualifications commission for the purpose of removing incompetent or unfit judges. The judicial merit se-

lection system was to have jurisdiction over the Supreme Court, all appellate courts, and all district and county courts.

Nominating Commissions

As created by Article VI, Section 24 of the Colorado Constitution, there are 23 judicial nominating commissions in Colorado; one in each of the state's 22 judicial districts and one statewide commission which attends to vacancies on the Supreme Court and the Court of Appeals.

Commission Composition. The nominating commission for the Supreme Court and the Court of Appeals is composed of the Chief Justice or acting Chief Justice of the Supreme Court, who serves as the non-voting chairman of the commission, one lawyer and one non-lawyer from each congressional district in the state, and one non-lawyer who is appointed at large. Presently, there are eleven voting lawyer and non-lawyer members on the commission. No more than one-half of the commission members plus one, excluding the Chief Justice, can be of the same political party.

The judicial district nominating commissions are composed of seven voting members; four non-lawyers and three lawyers. In judicial districts where the population is less than 35,000 persons, non-lawyers may be substituted for lawyers on the commissions. No more than four members of a commission may be from the same political party and there must be at least one voting member on the judicial district nominating commission from each county in the district.

The non-lawyer members of all of the constitutionally created commissions are appointed by the Governor. Lawyer members are appointed upon majority action of the Governor, the Attorney General, and the Chief Justice of the Supreme Court. Members are appointed to the commissions for six-year terms. Commission membership constitutes a temporary bar to holding certain elective offices and to any consideration for appointment to judicial office.

Each of the justices of the Supreme Court is a non-voting member of a judicial district nominating commission and serves as the chairman of the judicial district nominating commissions to which he is assigned. Since there are 22 judicial districts and only six justices, some justices are assigned to more than one judicial district nominating commission.

Filling of judicial vacancies. Whenever a judicial vacancy is declared to exist by virtue of the death, retirement, resignation, removal, failure to file a declaration for retention, or certification of a negative majority vote on the question of retention, the appropriate nominating commission is required to furnish a list of names to the Governor within thirty days. The list must contain three names if the vacancy occurs on the Supreme Court or Court of Appeals, and either two or three names if the vacancy occurs on a district court bench.

The Governor must make an appointment from the list of nominating commission nominees within fifteen days of the date the list is submitted to him. If the Governor fails to meet that deadline, the appointment is then made by the Chief Justice of the Supreme Court within the next fifteen days. Upon appointment, a judge or justice holds office for a provisional two-year term and is then required to stand in a retention election.

Commission procedures. Other than specifying the number of nominees who must be certified by the commission to the Governor for his consideration and appointment, and the time deadline for submission of the list of nominees, no procedures for the operation of the nominating commissions are included in the constitutional provisions which create the commissions. Rules of procedure have been adopted by each commission which specify procedures to: 1) convene the commission and solicit applications for judicial office when a vacancy occurs; 2) maintain the confidentiality of its proceedings; 3) obtain information for the screening of applicants in addition to the standardized application form, including personal interviews, credit checks, medical reports, and other references; 4) evaluate candidate information against various criteria and qualifications for judicial office; and 5) report commission nominations and other information pertinent to the nominees to the Governor. There appears to be some variation between rules of procedure adopted by the various commissions.

Retention Election

At the expiration of the term of office to which he was appointed, a justice of the Supreme Court or the Court of Appeals or a judge of any other court of record who desires to retain his judicial office for a full term (ten years for a Supreme Court and Court of Appeals justice, and six years for a district court judge) must file with the Secretary of State a declaration of intent to run for another term. The declaration must be filed within a period of not more than six months or less than three months before the general election next prior to the expiration of his term of office. Upon filing such a declaration of intent, the name of the justice or judge is placed on the ballot at the general election with the single question of whether he shall be retained in office -- "Yes" or "No". If a majority of those persons voting on the question vote in the affirmative, the justice or judge is elected to a succeeding full term. If a majority of those voting on the question vote "no", this will cause a vacancy to exist in that office at the end of his present term of office.

The election of the Supreme Court or Court of Appeals justices is by the electors of the state. District court judges are elected by the electors in the judicial district and county judges by the electors in the county. The same procedure is followed by the judge at the expiration of each full term in judicial office. If a judge fails to file the required declaration of intent, a vacancy is created in that office at the end of his current term.

Commission on Judicial Qualifications

The Colorado Commission on Judicial Qualifications, established by Article VI, Section 23 (3) of the Colorado Constitution, consists of nine members; three district court judges, two county court judges, two lawyers, and two non-lawyers. The judges are selected by the Supreme Court. Lawyer-members must have practiced law in Colorado for ten years and are appointed by majority action of the Governor, the Attorney General, and the Chief Justice. The non-lawyers are appointed by the Governor. All appointments are for four-year terms and vacancies are filled for a full term instead of the remaining unexpired portion. Appointees serve without salary, but receive actual and necessary expenses for attending commission meetings.

The commission is charged with the responsibility for investigating complaints against judges for:

- (1) willful misconduct in office;
- (2) willful or persistent failure to perform duties;
- (3) intemperance; or
- (4) disability interfering with the performance of duties which is, or is likely to become, permanent.

All Supreme Court, Court of Appeals, district and county court judges and justices, with the exception of county court judges in the City and County of Denver subject to the Denver Judicial Qualifications Commission, are under the jurisdiction of the commission. Currently, there are 207 judges and justices under the commission's jurisdiction.

The commission may take action either on its own motion or upon the complaint of any person. Judge members of the commission may not participate in cases involving themselves. If a complaint is filed by an attorney of record in a case presently before the judge complained about, that judge, at the written request of the commission, shall excuse himself from any case in which the complaining attorney is involved.

After an investigation of the complaint, the commission may order a hearing or request the Supreme Court to appoint three special masters, who are justices or judges of courts of record, to hear, take evidence, and make a report to the commission. After considering the material presented at the hearing or after considering the record and report of the masters, the commission may recommend to the Supreme Court the removal or retirement of the judge. Short of recommending retirement or removal of a judge to the Supreme Court, the commission may take such action as it deems fit on its own motion. The Supreme Court makes the final decision on removal or retirement after a review of the record and any additional evidence it deems appropriate.

All papers filed with and proceedings before the commission are required to be confidential under Article VI, Section 23 (3) of the Colorado Constitution. When the commission makes a recommendation to the Supreme Court, the record of the case loses its confidentiality, but remains privileged.

Commission rules of procedure were adopted by the Supreme Court on May 18, 1967, and amended on August 20, 1974. The rules of procedure are included as Chapter 24 of Volume 7 (Court Rules), Colorado Revised Statutes 1973.

According to the commission's most recent report, issued December 21, 1975, "Since 1967, 14 judges have resigned or retired following commission investigation, and 15 have been censured".

Committee Procedure

In addition to the advice, counsel, and testimony received by the committee from members of the advisory committee representing the viewpoints of lawyers, laymen, citizens, and former commission members, the committee received testimony from the following persons who have been involved in some capacity with the merit selection system: Edward Pringle, Chief Justice, Colorado Supreme Court; Tom Carney, President, Colorado Bar Association; Charles Friedman, President, Colorado Trial Lawyers Association; Harry Lawson, State Court Administrator; O. Otto Moore, former Chief Justice, Colorado Supreme Court; Daniel Shannon, Chairman, Judicial Qualifications Commission; George Gibson, President, District Judges Association; Judge Hallock, Adams County Court Judge; Representative Bob Leon Kirscht; Charles Denny, President, La Junta Broadcasting Corporation; and Paul Beacom, candidate for District Attorney, Adams County. In addition, the following persons testified on the matter of the relationship of the judicial and legislative branches in determining matters of substance and procedure: Chief Justice Pringle; former Chief Justice Moore; and Dr. Courtland Peterson, Dean, College of Law, University of Colorado. Chief Justice Pringle and Harry Lawson and Bernie Steinberg of the State Court Administrator's Office also testified on the role of part-time judges in Colorado's judicial system.

Issues Considered

Pursuant to the testimony received by the committee from advisory committee members and other witnesses, a number of issues were identified with respect to each of the assigned study items.

The authority of the judicial qualifications commission.
Issues pertaining to the authority of the Judicial Qualifications Commission, and whether or not it is serving the public interest, include:

- (1) the possibility of increasing the commissions effectiveness by permitting it to act upon a wider range of judicial infractions and allowing it to administer various sanctions other than removal; and
- (2) the advisability of stimulating greater public participation and control in the commission's activities.

Public participation in the nominating process. Areas explored by the committee in an effort to improve the nominating process by providing for more public participation included:

- (1) representation of the public as reflected in nominating commission lay membership;
- (2) the question of nominating commission confidentiality and the effects of public hearings on recruitment of potential candidates;
- (3) possible methods for increasing public awareness of commission procedures;
- (4) means of bringing public opinion into focus on potential candidates and decision-makers; and
- (5) the question of utilizing responsible elected officials in the nominating process.

Increasing the numbers of nominations. The desirability of increasing the number of persons nominated by nominating commissions and the resultant need for establishing new, and lengthening existing deadlines for submission of the nominations to the Governor were issues of concern to the committee.

Changes to judicial retention election provisions. The concepts of requiring an affirmative vote by extraordinary majority for judicial retention, permitting other candidates to be placed on the ballot in opposition to the judge in question, and the entire philosophy of the merit selection system as opposed to the elective system were issues identified for committee consideration.

Substance and procedure. The issue of defining procedural matters which fall within the rule-making and superintending powers of the court, as opposed to substantive law, which is subsumed within the legislative function was dealt with at length by the committee.

Part-time judges. In the light of a recent United States Supreme Court decision in the case of North v. Russell, 44 LW 5085 (June 28, 1976), the role of part-time non-lawyer county court judges in Colorado's judicial system appeared as an issue of concern to the committee.

the advisory committee to serve during the 1977 legislative interim.

Committee Recommendation No. 2. It is recommended that the specific study topics for the 1977 interim by the judicial merit selection and tenure study committee contain authorization for consideration of any matter pertaining to Article VI of the Colorado Constitution.

TRANSMITTAL OF PRELIMINARY REPORT

To: Legislative Committee on the Judiciary I
Senator Ralph Cole, Chairman

From: Legislative Committee on the Judiciary I, Advisory Committee
Dr. Chester M. Alter, Chairman

Date: November 29, 1976

Herewith is transmitted the Advisory Committee's tentative and preliminary response to a series of questions raised in the course of the several meetings and hearings held by your committee. We call your attention to our Foreword which describes our procedure, our decision to defer comments on matters involving constitutional amendments, and our rationale for or against some of the proposals suggested which we believe might be implemented by rule or statute.

In the interest of continued improvement of our Colorado judicial system, we believe many of the suggestions deserve further study by the Legislative Committee before a final report to the Legislature is formulated and before changes are promulgated by rule or statute. Some improvements we believe can be promptly made by changes in procedures used by the Commissions.

We appreciate the privilege you have given us to advise you and offer our continued services.

Respectfully submitted,

Advisory Committee Members:

Dr. Chester M. Alter, Chairman
Mr. Leonard Campbell, Esquire
Mr. Gene E. Fischer, Esquire
Mr. Gary Jackson, Esquire
Ms. Susan W. Joshel
Ms. Pat Mesec
Mr. Walter A. Steele, Esquire
Mr. Charles Traylor, Esquire
Mr. Houston Waring

FOREWORD

Members of the Advisory Committee (usually a majority) have attended all the public hearings of the Legislative Committee. We have been given the opportunity to testify individually out of our own experiences and observations and out of our study of the judicial systems of other states. We have listened to the testimony of those appearing before your committee and to the questions and suggestions made by the members of the committee.

The Advisory Committee has met separately from time to time to discuss the various questions raised and to develop a consensus on answers. From the minutes of the hearings, we have developed an inventory of matters, phrased in the form of questions, which we assume the Committee would have the Advisory Committee address. We have found that some of these suggestions would obviously require constitutional amendment. Because we believe more study as well as more precise drafting of proposed changes should be undertaken prior to recommending anything as important as a change in the Constitution, we have deferred comment on these matters.

On other questions involving possible changes that might be implemented by rule or by statute, we do offer some elaborative comments.

We should emphasize that the Advisory Committee feels that many of the questions raised and suggestions made need further consideration before we would be able to give a final "yes" or "no" answer. The answers we now give in this report are based on our current thinking; further consideration may modify our tentative positions.

PRELIMINARY REPORT
OF
ADVISORY COMMITTEE
TO
LEGISLATIVE COMMITTEE ON JUDICIARY I

November 29, 1976

INVENTORY OF STUDY ITEMS

I. MATTERS RELATED TO THE RETIREMENT AND REMOVAL OF JUSTICES AND JUDGES: THE COMMISSION ON JUDICIAL QUALIFICATIONS, etc. Section 23 of Article VI.

1. Question: Should the number of non-lawyer members of the Qualifications Commission be increased from 3 to 5? This would make a 12-member Commission, composed of 5 judges, 5 non-lawyers and 2 lawyers.

Answer: Yes Constitutional

Comments: Deferred

2. Question: Should lawyer members of Qualifications Commission be selected by Bar Association?

Answer: No Constitutional

Comments: Deferred

3. Question: Should gubernatorial appointees to Qualifications Commission be confirmed by the Senate?

Answer: No Constitutional

Comments: Deferred

4. Question: Should the House and Senate leadership appoint the non-lawyer members of the Qualifications Commission?

Answer: No Constitutional

Comments: Deferred

5. Question: Should a member or members of the House and Senate Judiciary Committees (to be appointed by the House and Senate leadership) serve as members of the Qualifications Commission?

Answer: Yes Constitutional

Comments: Deferred

6. Question: Should the Qualifications Commission be divided into an Investigation Board and a Hearing Board in a fashion similar to the Colorado State Board of Medical Examiners?

Answer: Yes, (with some reservations) Non-constitutional

Comments: A recommendation has been made that the Constitution be amended to increase the number of members on the judicial Qualifications Commission. With such an increased number of members on this commission, the rules of that commission should provide:

- (1) That each complaint be handled by separate investigative and hearing panels,
- (2) That each member of the commission might serve on investigative or hearing panels but that a member should not serve on a hearing board to consider any cases which had been brought before the investigative board of which he was a member.
- (3) That a quorum be established by rule for an investigative panel and hearing panel but the number of members need not be identical.

The need is obvious to avoid having the same members of the Qualification Commission acting first in an investigatory capacity prior to filing of charges and thereafter performing a quasi-judicial function involving the same investigation. Every effort must be made not only to avoid circumstances leading to a prejudgment of any accused but also any appearance of prejudgment. Separation of investigative and hearing duties in other administrative agencies of the state is working and the Advisory Committee believes this suggestion should be implemented as early as possible, as neither legislation nor constitutional amendment are needed for the present Qualifications Commission to adopt this policy.

A quorum for each type of panel should also be established by the rules of the present Committee on Judicial Qualifications.

7. Question: Should Section 23 be amended to provide for a removal mechanism so that inactive or uninterested members of the Qualifications Commission may be removed?

Answer: Yes Constitutional

Comments: Deferred

8. Question: Should Section 23 be amended so that, if a Qualifications Commission member is disqualified to act in any matter pending before the Commission for the same reasons that would disqualify a judicial officer from sitting in a matter, the Commission may appoint a special member or the original appointing officer may appoint a special member to sit in that case?

Answer: No Constitutional

Comments: Deferred

9. Question: Should subsection (3) b of Section 23 be amended to provide that the Qualifications Commission can investigate complaints against a justice or judges for "conduct prejudicial to the administration of justice that brings the judicial office into disrepute?"

Answer: Yes Constitutional

Comments: Deferred

10. Question: Should the criteria for the removal of a judge or justice be made to correspond to the code of Judicial Ethics?

Answer: No Constitutional

Comments: Deferred

11. Question: Should changes be made in Section 23 so as to include criteria for judicial conduct used in other states as follows:

1. corruption in office
2. commission while in office of any offense involving moral turpitude
3. gross partiality in office
4. oppression in office
5. violation of any code of judicial ethics
6. other grounds as may be specified by the legislature

Answer: Yes Non-constitutional
(questionable)

Comments: In the course of the public hearings before the Legislative Committee, it was indicated that there was need for greater flexibility in handling disciplinary charges involving judges. It appeared desirable to give an additional listing of areas of judicial conduct which could properly be deemed to be improprieties and, therefore, adequate reason for disciplinary action.

It was felt that the term "oppression in office" needed further study and clarification before being recommended.

Also the second grounds might be reworded; while in office, commission of, or conviction for, any offense involving moral turpitude.

The Advisory Committee recommends that flexibility should be permitted in the establishment and later creation of additional standards against which to measure proper judicial conduct, and for that reason believes inclusion of other grounds as may be specified by the legislature to be proper would be desirable.

12. Question: Should subsection (3)(a) of Section 23 be amended to permit the Qualifications Commission to privately censure a justice or judge and to recommend public censure to the Supreme Court?

Answer: Yes Constitutional

Comments: Deferred

13. Question: Should the power of the Qualifications Commission include the power to suspend, with or without pay, to censure, to reprimand, and to discipline?

Answer: Yes Constitutional

Comments: Deferred

14. Question: Should a mechanism be developed to enforce Commission confidentiality, and that penalties be adopted for confidentiality violation?

Answer: Yes Non-constitutional

Comments: While the current constitutional provisions of the judicial amendment specifically require confidentiality of the Qualifications Commission, there is no similar admonition to judicial nominating commissions. Nevertheless it is the belief of the Advisory Committee that confidentiality should be preserved in the nominating process for appointment of persons to fill judicial vacancies.

Unfortunately the Constitution does not presently contain provisions regarding the removal of members from a commission. An amendment to the Constitution describing the method or grounds for removal of members of a nominating commission will be required to clarify the authority and grounds for such removal.

In the meantime, it appears desirable that rules and regulations of a nominating commission, when first appointed, should be specifically instructed as to the confidentiality of the proceedings. Further, it is recommended that the rules of procedure for each commission provide for disciplinary action against any member of a commission violating that rule.

15. Question: Should violation of rules of Qualification Commission be cause for removal from the Commission?

Answer: Yes Constitutional

Comments: Deferred

16. Question: Should the name of Judicial Qualification Commission be changed?

Answer: Yes Constitutional

Comments: Deferred

17. Question: Should lifetime appointments to the judiciary be made without periodic votes for or against retention?

Answer: No Constitutional

Comments: Deferred

II. MATTERS RELATED TO ELECTIONS OR RETENTION OF JUSTICES AND JUDGES.
Section 25 of Article VI

18. Question: Should justices and judges be required to receive a 60 percent affirmative vote at retention elections to remain in office rather than a majority?

Answer: No Constitutional

Comments: Deferred

19. Question: Should Section 25 be amended to permit other names to appear on the ballot for contested judicial office?

Answer: No Constitutional

Comments: Deferred

20. Question: Should the question of whether or not the merit selection system shall be abolished and replaced with a non-partisan or partisan election of judges be submitted to the voters at the next general election?

Answer: No Non-constitutional

Comments: While it is recognized that this question would involve a constitutional amendment if it were answered affirmatively, i.e., that there be a partisan election of judges proposal to be submitted to the voters at the next general election, it was felt appropriate by the Committee to state its opinion that such a proposal not be submitted.

The present merit selection of judges in Colorado has gained for the state and the system widespread recognition throughout the United States and any abandonment of the principles and concept would be definitely contrary to what the Advisory Committee believes to be the best interests of the administration of justice in Colorado. Nevertheless there are some areas for improvement, both by constitutional amendment to be hereafter discussed, and by rule changes and legislative action as set forth in the answers to questions being furnished at this time.

The public hearings before the Legislative Committee have confirmed that political selection of judges in Colorado exposed the judicial system to improprieties that included:

1. Inefficient use of judges' and court officials' time during election years as they felt required to campaign.
2. Campaign financing problems because a major source of support for judges nearly always came from lawyers who later appeared before judges.
3. Unique importance in the nominating and election of judges of powerful political personalities.

In addition, while there could be no direct relationship of judicial performance to the promises of a political platform, the political process placed a potential judge before the electorate in the public position that his selection and the political campaign of the party and other office seekers were intimately inter-related.

III. MATTERS RELATED TO FILLING OF JUDICIAL VACANCIES, JUDICIAL NOMINATING COMMISSION etc. Section 20 and 24 of Article VI

21. Question: Should the number of non-lawyer members of the various nominating commissions be increased?

Answer: Yes (with reservation) Constitutional

Comments: Deferred

22. Question: Should the various nominating commissions hold a public hearing at the initial stages of the nominating process to allow for citizens input?

Answer: Yes Non-constitutional

Comments: It was reported to the Legislative Committee that the existing policy of all judicial nominating commissions includes notification to the news media of the existence of a vacancy in a judicial office and in establishing a deadline for filing nominations. It was felt that an opportunity for public participation could be encouraged by the scheduling of a public hearing as part of the process. It is recommended that when notice is given to the news media of the deadline for filing of questionnaires with the nominating commission, that there be scheduled a public hearing to be held before said deadline so the public could offer such input as it desired. Such a public meeting should not violate the confidentiality of those nominees who did not desire to make public their interest in appointment as a judge.

Some experienced members of the Advisory Committee felt that this proposed procedure would unduly increase the time required of the Commission and would add little to the effectiveness of the procedure or improve the quality of the results.

23. Question: Should a question pertaining to prior censure be included on questionnaire submitted by applicants for judicial nomination?
Note: now included

Answer: Yes Non-constitutional

Comments: It was felt by the Advisory Committee that the fact of prior censure, if it existed in the record of a nominee for judgeship, should be noted on the application so that members of the nominating commission could inquire into the circumstances under which the censure arose, if that were their desire. It was felt inappropriate that such an issue should be overlooked, either in the application or during questioning.

24. Question: Should rules of procedure for all Nominating Commissions be published?

Answer: Yes Non-constitutional

Comments: It is the belief of the Advisory Committee that an appropriate agency should review existing rules of procedure of judicial nominating commissions to provide uniform rules throughout the State of Colorado covering subjects appropriately controlled by such rules.

It is felt by the Committee that there may be some need for different policies in some rules of nominating commissions, arising from dissimilar conditions such as the number of applicants for judicial vacancies, but there could be uniformity of some rules such as the form of questionnaire, the need for more than one meeting of each nominating commission, publication of rules of procedure, the holding of a public hearing before the deadline for receiving applications, the notice of the existence of a vacancy, and the establishment of a quorum for a commission to act. Other subjects could also be covered by such uniform rules.

25. Question: Should the names of all applicants for a judicial vacancy be publicized by the appropriate Nominating Commission?

Answer: No Constitutional

Comments: It is felt by the Advisory Committee that the publication of the names of all applicants for a judicial vacancy would reduce the number and quality of applications, as it has been the experience of some nominating commissions that many lawyers do not desire to publicize an intention to become a judge and remove themselves from the active practice of law, and thereby jeopardize their retention of clients in the event they were not selected for a judicial position.

26. Question: Should the publication of names of persons nominated by a Commission for appointment by the Governor be mandated?

Answer: No Non-constitutional

Comments: Information presented in the public hearings of the Legislative Committee indicated that the publication of names of nominees at the time the list of names was given to the Governor would subject the appointing authority to political pressure that was inappropriate to the independence sought to be exercised in the selection of the best qualified candidate.

27. Question: Should the Governor's appointees be confirmed by the Senate?

Answer: No Constitutional

Comments: Deferred

28. Question: Should Supreme Court Justices be removed from all district court Nominating Commissions?

Answer: No Constitutional

Comments: Deferred

29. Question: Should all Nominating Commission interview questions be made uniform?

Answer: No Non-constitutional

Comments: It was felt inappropriate to standardize questions on the basis of uniformity that might in any way distort the inquiry and dialogue between an applicant and the nominating commission, as it is important that there be a full exploration by each member of the commission of those areas of interest which were believed to be most important in the judicial selection process. The concept of uniformity would bring with it the undesirable aspect of possible impropriety that might result from deviations from the normal or uniform or standard questions. It was hoped that each lay member, as well as each lawyer, would bring to an interview, the background and personal experience that would enable a truly wide inquiry in the process of the interview.

30. Question: Should the legislature, by resolution, request the Nominating Commission to adopt the public hearing proposal as part of their rules of procedure?

Answer: Yes (with reservation) Non-constitutional

Comments: It was felt that there should be additional input by the public in the nominating process and that an additional hearing was desirable, as set forth in the answer to question 22. In the circumstances, as additional public participation is to be encouraged, it is felt by the Advisory Committee that both the legislature by resolution and the Chief Justice of the Colorado Supreme Court, by appropriate action, should encourage such additional participation.

31. Question: Should the number of names submitted to the Governor by the Supreme Court Nominating Commission be increased from not less than three to not more than five?

Answer: Yes Constitutional

Comments: Deferred

32. Question: Should the number of names submitted to the Governor by the various judicial district Nominating Commissions be increased to permit submission of not less than two and not more than five?

Answer: Yes Constitutional

Comments: Deferred

33. Question: Should the 30-day limitation on certifying the nominee to the Governor be increased to 45?
- Answer: Yes Constitutional
- Comments: Deferred
34. Question: Should a seven-day delay period between a Commissioner's deadline for submission of application for a vacancy, and the selection and transmittal of the names of nominees to the Governor be mandated?
- Answer: Yes Non-constitutional
- Comments: The testimony presented at the public hearing before the Legislative Committee described committee procedures and improprieties of judicial commissions in some areas of the state that might be corrected by a more mature reflection on the responsibilities of commission members and the manner in which they act. The Advisory Committee concurs in the suggestion that there be a delay between the deadline for submission of applications by persons interested in appointment to a judgeship and the time at which the committee acts, so that the basis of a charge of precipitous action might be minimized.
35. Question: Should a person who is an active candidate for an elective public office be considered for nomination for a judgeship?
- Answer: No Constitutional
- Comments: Deferred
36. Question: Should violation of rules of Nominating Commission be cause for removal?
- Answer: Yes Constitutional
- Comments: Deferred
37. Question: Should minimal rules of procedure be made uniform for all Nominating Commissions?
- Answer: Yes Non-constitutional
- Comments: It was recognized that rules of procedure cannot be so detailed on a statewide basis as to be blueprints for the conduct of every meeting of each judicial nominating commission in different

judicial districts. The number of candidates, the interest in particular appointments in various judicial districts, and the differences between statewide nominating commissions and judicial district nominating commissions mitigate against detailed uniformity that would restrict flexibility needed by a commission. Nevertheless there are many essential requirements that each commission should meet and these matters should be set forth in minimal rules of procedure such as notice to news media, holding of a public meeting in the initial stages, confidentiality of the proceedings, disciplinary action for failure to abide by confidentiality, etc.

38. Question: Should the Nominating Commissions determine the willingness of a person to serve before he is nominated to the Governor?

Answer: Yes Non-constitutional

Comments: The nominating commission should investigate and ascertain the availability and willingness to serve of all nominees considered. It was felt by the Advisory Committee that there would be a waste of manpower in the nominating commission and a distortion of the list and number of nominees submitted to the Governor under the Constitution if it were not known whether one or more of the nominees would be willing to serve. For example, if there were three nominees and two were unwilling to serve, there is no provision under the present Constitution for the recertification of additional names and the Governor would, in effect, have only one person to appoint.

39. Question: Should the records of proceedings of the Nominating Commission be open to the public?

Answer: No Non-constitutional

Comments: See answer to question No. 14 on confidentiality; also answers to questions 25 and 26.

40. Question: Should preliminary public hearings be held by the Nominating Commission before the deadline for receiving applications?

Answer: Yes (some reservation) Non-constitutional

Comments: Deferred

41. Question: Should the Nominating Commission and the Governor maintain the confidentiality of the name of the nominees submitted?

Answer: Yes Non-constitutional

Comments: See answer to question 14; also 25 and 26.

42. Question: Should the members of the Nominating Commission be elected rather than appointed?

Answer: No Constitutional

Comments: Deferred

43. Question: Should the names of the nominees to fill judicial vacancies be placed on the ballot for non-partisan election rather than submitted to Governor for appointment?

Answer: No Constitutional

Comments: Deferred

44. Question: Should there be required at least two meetings on separate days of the Nominating Commission before submission of the names of the nominees to the Governor?

Answer: Yes, but subject to special exceptions Constitutional

Comments: It was felt by the Committee that the rules of nominating commissions could establish an initial period after the deadline for applications and might create a period before the submission of the information to the Governor that would tend to avoid an unreasonably hurried process at the beginning or end of each nominating selection by the commission. This is in response to a report to the Legislative Committee that on some occasions there had been only a perfunctory meeting of some judicial nominating commissions.

The foregoing suggestions would help to avoid hurried practices but probably cannot, and should not, be imposed on all nominating commissions under the existing constitutional 30-day period under which judicial nominating commissions presently act. The Advisory Committee is separately recommending that the minimum period for the nominating process be extended to 45 days.

45. Question: Should the members of the various Nominating Commissions be encouraged and given the opportunity to improve the quality of their work by attending conferences and by other methods?

Answer: Yes Non-constitutional

Comments: There are a number of conferences and seminars sponsored by such national organizations as the American Judicature Society and upon more than one occasion such conferences have been held in Denver. It is felt that every encouragement should be given to productive in-service training for nominating commissions. In addition, it was indicated that both the legislature and the Chief Justice of the Colorado Supreme Court should consider the desirability of a statewide conference in 1977 of members of the nominating commissions so the input of these people vitally interested in the nominating process could be obtained prior to the time when a constitutional amendment is submitted to the general electorate in November, 1977.

IV. RELATIONSHIPS OF THE LEGISLATIVE AND JUDICIAL BRANCHES IN DETERMINING MATTERS OF SUBSTANCE AND PROCEDURE

46. Question: Should the Court be granted final authority to determine the definition of substance and procedure in each context?

Answer: * Constitutional

Comments: Deferred

47. Question: Should the Legislature be granted power to override court rules by an extraordinary majority of each house?

Answer: * Constitutional

Comments: Deferred

48. Question: Should a mechanism be established whereby the Legislature is granted authority to reject court rules within a specified time period, or after a specified time period, such rules automatically become effective?

Answer: *

Comments: Deferred

* The Advisory Committee has not heard enough testimony or had the opportunity to research the problem to develop an advisory position on this matter.

V. THE ROLE OF PART-TIME JUDGES, REFERRES, AND MASTERS IN THE JUDICIAL SYSTEM.

49. Question: Should the provision for non-lawyer county court judges be abolished?

Answer: * *

Comments: Deferred

50. Question: Should circuit systems using full-time lawyer-judges be established in counties presently using part-time non-lawyer judges?

Answer: * *

Comments: Deferred

51. Question: Should a trial de novo in the district court be provided for all cases heard before non-lawyer county court judges?

Answer: * *

* The Advisory Committee feels that providing for lawyer-judges should be a long-term objective in all jurisdictions but more study should be given to the implications of such a move before the Advisory Committee can advise.

VI. GENERAL MATTERS RELATED TO STUDY ITEMS ASSIGNED IN H.J.R. 1047.

52. Question: Should the life of Committee on Judiciary I as provided in H.J.R. 1047 be extended for one year?

Answer: Yes Non-constitutional

Comments: The extension is required for the holding of public hearings and the additional consideration that must be given to the issues requiring amendment of the constitution.

53. Question: Should the Committee on Judiciary I, if extended, undertake to conduct a series of public meetings in various sections of the state to receive citizen input on the operation of the judicial system?

Answer: Yes Non-constitutional

Comments: There is an underlying desire to permit greater participation by the public in the nominating process for the selection of judges and in the circumstances it would appear desirable that, as a part of determining how the public should be involved in the judicial nominating process, there be additional hearings throughout the state to receive information and reaction and, hopefully, constructive suggestions.

54. Question: Are there matters pertaining to procedures made necessary by Article VI that may be, in the short term, modified by rule or by statute?

Answer: Yes Non-constitutional

Comments: The constitutional amendment enacted in 1962 by vote of the electorate contained a term that placed rule-making authority in the Supreme Court:

"The Supreme Court will make and promulgate rules governing the administration of all courts and shall make and promulgate rules governing practice and procedure in civil and criminal cases, except the General Assembly shall have the power to provide simplified procedures in county courts for claims not exceeding five hundred dollars and for trial of misdemeanors." Article VI, Section 21.

The possibility of conflict between the Court and the Legislature was the subject of a law review by Courtland Peterson, Dean of the Colorado University Law School, who appeared before the Legislative Committee. The question of legislative authority in this field was discussed by Senator Ralph Cole and the position of the Supreme Court stated by Chief Justice Pringle. To the extent that the question involves the constitutional proviso in the judicial amendment, the Advisory Committee seeks to defer any comment until a specific proposal is available for study.

In the meantime the Committee has made suggestions for change that might be made by the judicial nominating or qualifications committees and recommended that both the legislature and the Supreme Court stimulate these improvements to the existing judicial system.

55. Question: Should the name of the "Qualifications" Commission be changed to make it more descriptive of duties?

Answer: Yes Constitutional

Comments: Deferred

56. Question: Should vacancies on various commissions be promptly filled?

Answer: Yes Non-constitutional

Comments: Deferred

LEGISLATIVE COUNCIL
COMMITTEE ON LOCAL GOVERNMENT

Members of the Committee

Sen. Robert Allshouse, Chairman	Rep. Ted Bendelow
Rep. Charles Howe, Vice-Chairman	Rep. Betty Ann Bittamore
Sen. Ralph Cole	Rep. William Flanery
Sen. Lorena Darby	Rep. Nancy Flett
Sen. Martin Hatcher	Rep. Carl Gustafson
Sen. Kenneth Kinnie	Rep. John Hamlin
	Rep. Casey Hayes
	Rep. Arthur Herzberger*
	Rep. James Lloyd
	Rep. Sam Zakheim

Council Staff

Wallace Pulliam Principal Analyst	Bart Bevins Senior Research Assistant
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*Resigned November 13, 1976, due to appointment to the Joint Budget Committee.

COMMITTEE ON LOCAL GOVERNMENT

The Committee on Local Government was directed by the Legislative Council to examine the functional organization of the Department of Local Affairs. With only three allotted meetings, the committee was not able to develop any specific bills, but it has identified a number of areas which need further study or consideration by the General Assembly.

Organization of the Department

Eight statutory divisions are included within the Department of Local Affairs -- Commerce and Development, Housing, Local Government, Planning, Property Taxation, Criminal Justice, the Colorado Bureau of Investigation, and the Colorado Law Enforcement Training Academy. The department also includes the Office of Rural Development, and seven statutory advisory or quasi-administrative boards: Advisory Committee on Commerce and Development; Motion Picture and Television Advisory Commission; State Council on Criminal Justice; Advisory Board to the Colorado Law Enforcement Training Academy; State Housing Board; and the Advisory Board to the Property Tax Administrator. The department also provides clerical and staff assistance to the State Board of Assessment Appeals. The basic statutory organization is shown in the organization chart on page 70.

The committee met with representatives of each of these agencies and, in these informative meetings, many members developed a better understanding of each agency's duties and responsibilities.

Committee Findings - Departmental Organization

Table 1 (see pages 72 and 73) shows graphically the committee's major concern. There appears to be significant statutory similarity or duplication in functions between agencies charged with providing assistance to, or preparing materials and data for use by, local governments. The chart suggests that this similarity and duplication is particularly evident between agency directives for land use and planning assistance. While a number of conclusions may be drawn from the chart, it would be unfair to utilize the chart to criticize any of the agencies listed. These are statutory functions. The problems shown, if any, exist in law. The chart includes two agencies that are not located within the Department of Local Affairs; the Office of Planning and Budget is a separate department, and the Land Use Commission is statutorily placed in the Office of the Governor.

Except for the Office of Rural Development, Table 1 does not list all of each agency's statutory functions. For example, the Division of Local Government is directed to publish an annual compendium of local government finances including a list of all special dis-

DEPARTMENT OF LOCAL AFFAIRS

Statutory Organization

(Showing 1976-77 Appropriations and Authorized FTE by Agency)

Adv. Comm. -
Factory
Housing
12 Memb.
C/
13 Memb

Office of Rural
Development

Executive Director
37 FTE
\$3,393,992*

St. Housing
Board

7 Members^{B/}

Division of
Commerce &
Development

17 FTE
\$718,540

Motion
Picture
& Television
Comm.
8 Members^{A/}
\$70,000

Colorado Bureau
of Investigation

58.5 FTE
\$1,267,066

Advisory
Commission
11-15 Memb.^{A/}

Colorado Law
Enforcement
Training Acad.

1.5 FTE
\$183,537

Adv. Board
9 Members^{A/}

Division of
Local Govt.

15 FTE
\$2,656,308

Division of
Property
Taxation

43 FTE
\$1,184,708

Adv. Comm.
5 Members^{B/}

Division of
Criminal
Justice

34 FTE
\$8,765,214

State
Council on
Crim. Just.
22 Members^{A/}

Board of
Assessment
Appeals

3 Members^{A/}

Division of
Planning

16 FTE
\$1,385,001

Division of
Housing

18 FTE
\$368,066

Department Total--All Agencies = 240 FTE and \$19,992,432 Appropriated

* Includes funds for Rural Development (Four Corners Regional Council), Board of Assessment Appeals, Contracts for Cultural Services (formerly in Council on Arts and Humanities), transfer of Crime Information Center from Division of ADP, and emergency water and sewer funds.

A) Members, other than state employees or officials if any, appointed by the Governor.

B) Appointed by Governor with consent of Senate. C) Appointed by Board.

Advisory only

Commissions or Boards
having policy responsibilities

tracts; to retain files and records on local government formations, annexations, and consolidations; to conduct a purchasing program to allow local governments to utilize the state's quantity purchasing ability; to provide budgetary assistance to local governments; and to approve or reject requests of local governments which seek an increase in their levy beyond the 107 percent statutory limitation. The Division of Planning has specific responsibilities to provide planning assistance to local governments. The Division of Commerce and Development is charged with directing programs for the development and expansion of tourism, to advertise and publicize the state, to represent the Governor in matters relating to economic development, and to promote the use of the state through the motion picture and television industry.

Finally, Table 1 does not cover a number of programs or functions these agencies may be conducting by reason of budgetary (long-bill) directives, federal grants, and executive orders. For example, the Department of Health conducts a statutorily authorized waste water treatment grant program for local governments. The Division of Local Government is also authorized, by the long appropriations bill, to provide emergency water and sewer funds and planning and engineering grants for sewage treatment to local governments not qualifying for assistance under the Department of Health's program.

The committee was concerned about the number of programs the General Assembly has established in the department through the appropriations process, without also specifying by general statutory enactment the directives, responsibilities, and limitations thereon. The committee is not aware of any program so authorized which is outside of the general statutory authority of the department or a specific division. However, the committee concluded that the General Assembly should examine more closely its practice of establishing programs through the appropriations process and not by general law.

The department continually emphasized that its primary role was to provide assistance to, and be the primary state agency in support of, local governments. However, other agencies in the state are assigned programs which provide services or directly affect local governments. For example, the Department of Highways is charged with developing a comprehensive master plan for state highways; the Department of Natural Resources with resource management plans, water resource plans, and plans for the development of outdoor recreation resources; and the Department of Health is charged with comprehensive health planning and water quality control.

Table 1

Comparison of Similar Statutory Directives -- Local Government, Planning, Rural Development, Commerce and Development, Land Use Commission, Planning and Budgeting

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6
Division of Local Government	Office of Rural Development	Division of Planning	Division of Commerce and Development	Office of State Planning and Budgeting - Division of State Planning	Land Use Commission

(a) To assist the government in coordinating the activities and services of various divisions within the department of local government in order to provide more effective services to units of local government and to simplify procedures with respect thereto;

(b) To advise the governor and the general assembly of the problems of local government;

(c) To serve as a clearinghouse, for the benefit of local government, of information relating to the common problems of local government, and of state and federal services available to assist in the solution of those problems;

(d) To perform such research as is necessary to carry out the functions of the division, including the study of local government, intergovernmental relations, the structure and powers of local government units and their relationships to each other, local government finance, services, management, and functions;

(e) To encourage and when so requested assist local governments to develop mutual cooperative solutions to rural community development;

(f) To encourage and assist when requested, local governments to develop mutual cooperative solutions to rural community development and employment;

(g) To encourage and cooperate in training institutes, conferences, and programs for local government officials and employees;

(h) To provide technical assistance upon request by local government problem in defining their local government problem and developing solutions thereto;

(i) To carry out studies and continuous analyses of rural development in the state with particular emphasis on its effect on population dispersion and economic opportunity;

(j) To make studies and inquiries relevant to state planning of the resources of the state and of the problems of agriculture, industry, commerce, as well as population and urban growth, local government, and related matters affecting the development of the state; (See also (d) under Division of Local Government, both public and private, in the preparation, maintenance, and interpretation of demographic information; (See also (b) above.)

(k) To attend and participate in meetings of county, municipal, or regional planning bodies, interstate agencies, and other planning conferences;

(l) To advise and supply available information to civic groups and other organizations that concern themselves with state or local planning problems and community development;

(m) To develop, promote, and coordinate long-range plans for the economic development of the state;

(n) To conduct a state economic research and information center for the use of state and local governmental agencies, private industry, labor, the professions, and other groups, both in and out of the state, interested in the economy of the state;

(o) To coordinate and stimulate assistance, and the efforts of governmental and private agencies engaged in the planning and development of a balanced economy for Colorado;

(p) To stimulate and guide area redevelopment plans in those areas of the state with declining economies;

(q) To encourage and assist when requested, local governments to develop mutual cooperative solutions to rural community development;

(r) To encourage and assist when requested, local governments to develop mutual cooperative solutions to rural community development and employment;

(s) To encourage and cooperate in training institutes, conferences, and programs for local government officials and employees;

(t) To provide technical assistance upon request by local government problem in defining their local government problem and developing solutions thereto;

(u) To carry out studies and continuous analyses of rural development in the state with particular emphasis on its effect on population dispersion and economic opportunity;

(v) To make studies and inquiries relevant to state planning of the resources of the state and of the problems of agriculture, industry, commerce, as well as population and urban growth, local government, and related matters affecting the development of the state; (See also (d) under Division of Local Government, both public and private, in the preparation, maintenance, and interpretation of demographic information; (See also (b) above.)

(w) To develop, promote, and coordinate long-range plans for the economic development of the state;

(x) To conduct a state economic research and information center for the use of state and local governmental agencies, private industry, labor, the professions, and other groups, both in and out of the state, interested in the economy of the state;

(y) To coordinate and stimulate assistance, and the efforts of governmental and private agencies engaged in the planning and development of a balanced economy for Colorado;

(z) To stimulate and guide area redevelopment plans in those areas of the state with declining economies;

(aa) To encourage and assist when requested, local governments to develop mutual cooperative solutions to rural community development;

(ab) To encourage and assist when requested, local governments to develop mutual cooperative solutions to rural community development and employment;

(ac) To encourage and cooperate in training institutes, conferences, and programs for local government officials and employees;

(ad) To provide technical assistance upon request by local government problem in defining their local government problem and developing solutions thereto;

(ae) To carry out studies and continuous analyses of rural development in the state with particular emphasis on its effect on population dispersion and economic opportunity;

(af) To make studies and inquiries relevant to state planning of the resources of the state and of the problems of agriculture, industry, commerce, as well as population and urban growth, local government, and related matters affecting the development of the state; (See also (d) under Division of Local Government, both public and private, in the preparation, maintenance, and interpretation of demographic information; (See also (b) above.)

(ag) To develop, promote, and coordinate long-range plans for the economic development of the state;

(ah) To conduct a state economic research and information center for the use of state and local governmental agencies, private industry, labor, the professions, and other groups, both in and out of the state, interested in the economy of the state;

(ai) To coordinate and stimulate assistance, and the efforts of governmental and private agencies engaged in the planning and development of a balanced economy for Colorado;

(aj) To stimulate and guide area redevelopment plans in those areas of the state with declining economies;

(ak) To encourage and assist when requested, local governments to develop mutual cooperative solutions to rural community development;

(al) To encourage and assist when requested, local governments to develop mutual cooperative solutions to rural community development and employment;

(am) To encourage and cooperate in training institutes, conferences, and programs for local government officials and employees;

(an) To provide technical assistance upon request by local government problem in defining their local government problem and developing solutions thereto;

(ao) To carry out studies and continuous analyses of rural development in the state with particular emphasis on its effect on population dispersion and economic opportunity;

(ap) To make studies and inquiries relevant to state planning of the resources of the state and of the problems of agriculture, industry, commerce, as well as population and urban growth, local government, and related matters affecting the development of the state; (See also (d) under Division of Local Government, both public and private, in the preparation, maintenance, and interpretation of demographic information; (See also (b) above.)

(aq) To develop, promote, and coordinate long-range plans for the economic development of the state;

(ar) To conduct a state economic research and information center for the use of state and local governmental agencies, private industry, labor, the professions, and other groups, both in and out of the state, interested in the economy of the state;

(as) To coordinate and stimulate assistance, and the efforts of governmental and private agencies engaged in the planning and development of a balanced economy for Colorado;

(at) To stimulate and guide area redevelopment plans in those areas of the state with declining economies;

(au) To encourage and assist when requested, local governments to develop mutual cooperative solutions to rural community development;

(av) To encourage and assist when requested, local governments to develop mutual cooperative solutions to rural community development and employment;

(aw) To encourage and cooperate in training institutes, conferences, and programs for local government officials and employees;

(ax) To provide technical assistance upon request by local government problem in defining their local government problem and developing solutions thereto;

(ay) To carry out studies and continuous analyses of rural development in the state with particular emphasis on its effect on population dispersion and economic opportunity;

(az) To make studies and inquiries relevant to state planning of the resources of the state and of the problems of agriculture, industry, commerce, as well as population and urban growth, local government, and related matters affecting the development of the state; (See also (d) under Division of Local Government, both public and private, in the preparation, maintenance, and interpretation of demographic information; (See also (b) above.)

Col. 1
Division of Local Government (Cont.)

Office of Rural Development (Cont.)

(b) To contract with the federal government or any agency or instrumentality thereof and receive any grants or money's therefrom for purposes of rural development in Colorado.

private and civic sources;

Division of Planning (Cont.)

Col. 5

Division of Commerce and Development
(Cont.)

Col. 4

Office of State Planning and Budgeting -
Division of State Planning (Cont.)

Col. 5

- (g) To exchange reports and data which relate to state planning with other departments, institutions, and agencies of the state and on a mutually-agreed basis with towns, cities, counties, and instrumentalities; other local agencies and instrumentalities; (See Col. 1 and 2 and (f), Col. 2.)
- (h) To advise the governor and the general assembly on all matters of state-wide planning and consult with other offices of state government with respect to matters of planning affecting the duties of their offices; recommend any proposals for legislation affecting local, regional, or state planning;
- (i) To exercise all other powers necessary and proper for the discharge of its duties and the carrying out of the intent of this part 2, including the coordination of the provisions of part 1 of article 28 of title 50, C.R.S. 1973 (county planning law);
- (j) To stimulate and assist the planning activities of other departments, institutions, and agencies of regional, county, and municipal planning authorities and harmonize its planning activities with theirs;
- (k) To participate in comprehensive interstate planning and other activities related thereto;
- (l) To act as reviewing authority or otherwise provide cooperative services under any federal-state planning programs (ADP Review);
- (m) To serve as the primary state agency of demographic information, and prepare, maintain, and interpret such population statistics, estimates, and projections as the director of the division of planning shall direct, including distinctions of the state's population by significant groupings, such as school and college-age populations, political subdivisions populations, and racial and ethnic populations (See also (g) and (c) in Col. 2.)
- (Other agencies of the state government may prepare and maintain any such information but only as authorized by the director of the division of planning.)

- (c) Stimulate, encourage, and assist state agencies in their respective areas of responsibility;
- (d) Review and coordinate the planning efforts of state agencies, including the relationship of such efforts with federal and local governmental programs;
- (e) Furnish state agencies with data, projections, and other technical assistance needed to discharge their planning responsibilities and coordinate the exchange of relevant reports, data, and projections among state agencies;

- (b) Coordinate the preparation and maintenance of long-range master plans which recommend executive and legislative actions for achieving desired state objectives and which include recommended methods for evaluation; (See also (a) Col. 1 through 4 and (b) in Col. 1 and 2.)

- (e) To accept and administer federal grant-in-aid funds devoted to state development and promotional activities;
- (f) To receive and expend, with the approval of the governor, all funds, grants, gifts, and bequests, including federal and state funds and other funds available for the purposes for which the United States and all other legal entities with respect thereto, including legally constituted regional, county, metropolitan, and municipal planning commissions or districts. The division may also provide, within the limitations of its budget, matching funds wherever funds, gifts, bequests, and contractual assistance are available on such basis.

Suggestions for Further Study or Action

Colorado's Statutory Planning Structure

The General Assembly should closely review the state's overall planning structure. As noted above and suggested in Table 1, there appear to be a number of areas in which the statutory directives to the Divisions of Local Government, Planning, Commerce and Development, the Office of Rural Development, the Office of State Planning and Budgeting, and the Land Use Commission, are similar or duplicative. The role of each agency should be clearly defined in statute reducing the chances of administrative conflicts, and eliminating the possibility of assigned duties not being completed because of this dispersion of statutory responsibility.

As far as planning is concerned, there have been several previous attempts to clarify the role of the various state agencies charged with this function. For example, the 1973 Committee on Land Use suggested abolishing the Land Use Commission and transferring its planning-related functions to the Division of Planning. The responsibilities of the Division of Planning were also recommended to be revised extensively to make it the primary single state planning agency to provide and coordinate assistance to local governments.

That same year, the Committee on Organization of State Government suggested the establishment of the "Office of Budgeting and Governmental Planning". Under this proposal, the Division of Planning was to become the "Division of Local Planning Assistance". Part of this recommendation was adopted by the General Assembly when it established the Office of State Planning and Budgeting, but neither of the 1973 recommendations which addressed the role and function of the Division of Planning were adopted.

In 1975, Research Group Inc., a private consulting firm, prepared a report on the planning, land use, and local assistance responsibilities in the Department of Local Affairs. It stated its major conclusions as follows:

The State of Colorado should continue its traditional philosophy of strengthening governmental process at the local level. In support of this, state and federal resources should be marshalled to allow for the maximum amount of local flexibility and operational decision-making within a framework of state goals and guidelines.

The Department of Local Affairs is the principal state agency able to provide financial, technical and planning services to regional and local units of government. Some reorganization and reassignment of activities must be carried out, by both the governor and the legislature, in order to fully satisfy this principle.

The present system of coordination and delivery of service within the Department of Local Affairs and between the Department and other agencies is inadequate and needs to be drawn together more effectively and communicated to other state and local personnel.

The process of land use planning and regulation is fragmented and disjointed and to a great extent ineffective in carrying out the principle of providing guidance and assistance to other state and local agencies.

Although currently steps are underway to organize an advisory group to the governor to assist in the development of growth strategies for the state, the opportunity for meaningful accomplishment will be lost without adequate organization, financing and direction of the necessary staff efforts.

Perhaps both of the 1973 recommendations and the recommendations of the Research Group Inc. could serve as a starting point for a draft bill or for further study.

This year the Land Use Commission has also been examining the land use and planning functions through a series of hearings throughout the state. At its final meeting, the committee met with representatives of the Land Use Commission who indicated several concerns similar to those noted above. The commission reported that a preliminary analysis of the materials generated by their statewide hearings suggest three major findings:

(1) That Colorado is, and should continue to be, committed to local control of land use decision-making;

(2) The current state organization for planning, land use, and other state assistance to local entities is fragmented and needs to be revised and coordinated; and

(3) The state, as it revises and coordinates the local assistance function, needs to provide more and better technical assistance to its local governments. Representatives of the commission listed about ten additional areas of concern and indicated that it plans to make specific recommendations to the Governor and the General Assembly in late December of this year.

The Office of Rural Development and Division of Commerce and Development

The role and functions of the Office of Rural Development and the Division of Commerce and Development may need to be examined. These agencies appear to have been created for similar purposes. Is not there a need to redefine their individual roles? Is there really a need for two separate agencies?

Division of Local Government

The Division of Local Government conducts a number of varied programs. Some are authorized by statute; others are mandated by the long bill. In addition to the functions enumerated in an earlier part of this report, the division is directed by statute to serve as a coordinating agency with other state executive departments serving local governments; it is directed to be a clearinghouse for federal and state services available to local governments; and it serves as the distributing agency of the Land Use Act planning funds (House Bill 1041).

The division has often been described as a "catch-all" for various programs. Is there a need to clarify its statutory functions particularly in view of the duplicative nature of many of its generalized statutory directives with those of other divisions?

Questionnaire. As a part of its study, the committee sent a questionnaire on the Department of Local Affairs to 90 municipalities and the state's 62 counties. While care should be used in drawing any conclusions from the questionnaire, the committee is of the opinion that the following might be suggested.

A significant number of the respondents were not aware of the functions and services available from the department. One possible conclusion is that the department does not communicate with local decision-makers as well as it might. However, the committee does believe that Colorado needs to make a concerted effort (and this would require a greater financial commitment on the part of the state) to provide the types of information needed at the local level. (A copy of the responses to the questionnaire can be obtained from the Legislative Council.)

A number of responses also pointed to the duplicative responsibilities at the state level, for local planning and other assistance. As previously suggested, this situation needs resolution by the General Assembly.

Colorado Law Enforcement Training Academy

The Colorado Law Enforcement Training Academy (CLETA) is located, through a type 1 transfer, within the Department of Local Affairs, and its staff is budgeted in the department. However, the law provides that the academy is to be under the control and supervision of the Chief of the Colorado State Patrol, who is designated as superintendent, although that officer is not under the jurisdiction of the Department of Local Affairs. In addition, there is an independent CLETA Advisory Board, consisting of the Attorney General, the agent in charge of the Denver FBI office, and three sheriffs, three chiefs of police, and a civilian member, all appointed by the Governor. This board was created in 1965 and acts in an advisory capacity regarding CLETA matters and as a controlling body concerning standards for

training instruction and training academies. The board is charged with establishing procedures for determining whether a peace officer meets training standards, and it is empowered to certify qualified peace officers and withhold or revoke certification.

While this three agency governing structure -- Department of Local Affairs, the State Patrol, and the independent policy-making board -- does not currently appear to be causing any major administrative problems, conflicts over administrative authority could develop in the future. The committee believes the General Assembly may need to reexamine the statutory organization to clarify the role and responsibility of each governing agency or to consolidate the control of CLFTA in a single agency.

Divisions of Housing, Criminal Justice, Property Taxation, and the Colorado Bureau of Investigation

The committee submits no recommendations regarding the Divisions of Housing, Criminal Justice, Property Taxation, or the Colorado Bureau of Investigation. While the committee examined the operation of these divisions, it found little duplication of functions within the department.

One further concern raised by the committee related to the continued operation of the Division of Criminal Justice. This division is funded primarily through federal revenues. If, as has been suggested, this federal funding is ended, the status of the division, those programs it sponsors, and its continued existence would be jeopardized unless more funds are appropriated by the state. Should an appropriate state response be developed in advance of such an eventuality?

LEGISLATIVE COUNCIL
COMMITTEE ON WILDLIFE

Members of the Committee

Sen. Joe Schieffelin, Co-Chairman	Rep. Robert Burford
Rep. George Roley, Co-Chairman	Rep. Joe Cantrell
Sen. Tilman Bishop	Rep. Steven Durham
Sen. Fay DeBerard	Rep. Ronald Elliott
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	Rep. Roy Wells

Council Staff

Larry Thompson
Research Associate

Brian Mitchell
Research Assistant

COMMITTEE ON WILDLIFE

The Committee on Wildlife, created pursuant to House Joint Resolution 1047, 1976 Session, was directed to study the activities, duties, functions, problems, new developments, and budgets of the various divisions within the Department of Natural Resources. Since time limitations did not permit an examination of the functions and activities of all the divisions within the department, emphasis was given to a review of the statutes governing the Division of Wildlife, the Wildlife Commission, and the Division of Parks and Outdoor Recreation.

Legislation is recommended concerning the Divisions of Wildlife and Parks and Outdoor Recreation: Bill 10, amending the legislative declaration for the Wildlife Division; Bill 11, concerning license agents; Bill 12, concerning threatened species; Bill 13, relating to the administration of Miramonte and Highline Lake State Recreation areas; and Bill 14, amending certain penalty provisions of wildlife and parks and outdoor recreation law. In addition, the committee recommends Bill 15, relating to fees for certain parks passes and certificates; Bill 16, concerning acquisition of land in Golden Gate State Park; and Bill 17, providing for duties and responsibilities of the deputy director of the Department of Natural Resources.

Duties and Functions of Division of Wildlife and the Wildlife Commission

The committee reviewed Colorado statutes and heard testimony on the powers and duties of the Division of Wildlife. This division is responsible by statute for the stewardship of Colorado's wildlife. It is under the jurisdiction of the Wildlife Commission, which is the policymaking agency for the division. The commission establishes objectives which enable the division to develop, manage, and maintain sound programs of hunting, fishing, trapping, and other wildlife-related outdoor recreational activities (see section 33-1-108, C.R.S. 1973).

The following functions assigned the Wildlife Commission pursuant to section 33-1-112, C.R.S. 1973, were reviewed:

- (1) Acquire by gift, transfer, devise, lease, purchase, or long-term operating agreement, such land and water, or interest in land and water, as in the judgment of the commission may be necessary, suitable, or proper for wildlife purposes or for the preservation or conservation of wildlife;
- (2) Lease, exchange, or sell any property, water, land or interest in land, including oil, gas, and other organic and inorganic substances which now are or may become surplus, or which, in the proper management of the division,

the commission desires to lease, exchange, or sell. All sales of property, water, or lands, shall be at public sale, and the commission has the right to reject any or all bids;

- (3) Construct or otherwise establish public facilities and conveniences at any site or on any land in which the commission holds an interest; operate and maintain all such lands, facilities, and conveniences and provide services with respect thereto; and, when appropriate, adopt reasonable fees or charges for their use or enter into contracts for their maintenance or operation;
- (4) Enter into cooperative agreements with state and other agencies, educational institutions, municipalities, political subdivisions, corporations, clubs, landowners, associations, and individuals for the development and promotion of wildlife programs; and
- (5) Enter into agreements with landowners for public hunting and fishing areas. Such agreements shall be negotiated by the commission or its authorized agent. The agreements shall provide that, if the landowner opens the land under his control to public hunting and fishing, the commission shall reimburse him in an amount to be determined by the parties to the agreement.

The committee is also submitting recommendations concerning the following responsibilities of the Division of Wildlife:

- (1) Licenses and fees - The division is responsible for promulgating rules and regulations governing licenses and fees and for issuing wildlife licenses. Section 34-4-101, C.R.S. 1973, outlines license requirements and section 33-4-102 lists the types of licenses which the Division of Wildlife may issue.
- (2) Law enforcement and penalties - Article 6 of Title 33 explains the duties of wildlife officers; gives authority to establish check stations; authorizes the bringing of actions against people who illegally kill wildlife and waste wildlife meat; sets out requirements for hunters, and types of vehicles to be used when hunting; establishes regulations regarding firearms and shooting; and provides penalties and assessments for violations of the article.
- (3) Nongame and endangered species conservation - The Division of Wildlife is charged by sections 33-8-102 to 110, C.R.S. 1973, to:
 - (a) Conduct investigations on nongame wildlife in order to develop information relating to population,

distribution, habitat needs, limiting factors, and other biological and ecological data to determine necessary management measures to sustain themselves successfully;

- (b) Keep a current list of endangered species within the state;
- (c) Establish management programs and areas to protect nongame and endangered wildlife; and
- (d) Issue and enforce regulations regarding nongame wildlife and endangered species.

The above listed responsibilities should continue within the Division of Wildlife and the Wildlife Commission. To enable the Wildlife Commission and the division to better administer and enforce such statutory requirements, Bills 10 through 14 are recommended:

Legislative Declaration for Division of Wildlife -- Bill 10

Bill 10 would repeal the legislative declaration for Article 1 of Title 33 which, as written, is largely a policy statement for the development and use of parks and outdoor recreation areas. A legislative declaration, more appropriate for the duties and functions assigned the Wildlife Division, is provided by Bill 10.

The legislative declaration, as written in Bill 10, proposes that populations of all species of wildlife shall be preserved and that wildlife habitats shall be protected. It also declares that public needs and desires be given close consideration in determining this state's policy for wildlife preservation and protection.

The legislative declaration which would be repealed by Bill 10 would be inserted in Article 30 of Title 33, which describes the powers and duties of the Division of Parks and Outdoor Recreation. Said declaration would be amended to state that no wildlife cash funds may be expended on or in state parks or recreation areas unless the Wildlife Commission determines that such expenditures will enhance wildlife values.

License Agents -- Divisions of Wildlife and Parks and Outdoor Recreation -- Bill 11

Colorado statutes relating to license agents for the Division of Wildlife and Division of Parks and Outdoor Recreation provide that such agents can sell licenses "in the field". The committee believes that licenses for hunting, fishing, and boating should be sold only at permanent recognized business locations.

Bill 11 would require that a license agent be a sole proprietor, partnership, or corporation having a permanent business location in Colorado. The Wildlife Commission and the Board of Parks and Outdoor Recreation could authorize certain of their employees to be license agents. These employees would not be entitled to retain a commission for such license sales, nor would they be required to post bond.

The Department of Natural Resources was requested to prepare an amendment to Bill 11 relating to the date on which interest would start to accrue on payments due these two divisions from the sale of licenses, permits, certificates, stamps, and cards.

Threatened Species -- Bill 12

In the 1975 session, Senate Bill 322 was enacted into law which provided a statutory definition for "threatened species" and revised the definition of "endangered species" in Article 8 of Title 33. "Threatened species" were defined by section 33-8-103 (8) as "any species or subspecies of wildlife which is not in immediate jeopardy of extinction but is vulnerable because it exists in such small numbers or is so extremely restricted throughout all or a significant portion of its range that it may become endangered."

Bill 12 would make technical amendments in the statutes by adding the words "or threatened" to the provisions of Article 8. This article presently addresses only nongame and endangered species and does not reflect the changes provided by the 1975 act (S.B. 322). A penalty subsection has been written into the bill to provide that the conviction of any person for violations of provisions of Article 8, in regard to threatened species, subjects the violator to a possible \$200 fine, or three months imprisonment, or both.

Transfer of Miramonte and Highline Lake State Recreation Areas to Division of Wildlife -- Bill 13

Representatives of the Divisions of Wildlife and Parks and Outdoor Recreation reported that federal aid funds derived exclusively from hunters and fishermen under federal legislation (the Pittman-Robertson and Dingell-Johnson Acts) have been used for improvements at the Highline Lake and Miramonte State Recreation Areas. It was stated that the U.S. Fish and Wildlife Service has alleged that the state may be in violation of those federal acts due to a diversion of the federal aid funds.

Bill 13 would provide that the administration of Highline Lake and Miramonte State Recreation Areas be transferred from the Division of Parks and Outdoor Recreation to the Division of Wildlife. The committee believes that such legislation is necessary in order to ensure that federally financed property will not be used for purposes which interfere with approved project purposes, or which otherwise

could be in violation of federal regulations promulgated pursuant to the Pittman-Robertson and Dingell-Johnson Acts.

Penalty Provisions of Wildlife and Parks and Outdoor Recreation Law --
Bill 14

Bill 14 would amend penalty provisions (section 33-6-127, C.R.S. 1973) of the wildlife and parks and outdoor recreation law in an attempt to assure that these provisions are constitutional. The statutes, as now written, provide two sets of penalties for violations concerning the pursuit or possession of big game or wildlife other than big game which are the property of the state. If a person accepts a penalty assessment notice for a violation of sections 33-6-125 (wildlife other than big game) or 33-6-126 (1) (big game), that person is subject to a specific fine (e.g., illegal possession of an elk -- \$400). If such person, instead, is found guilty of a violation of sections 33-6-125 or 33-6-126 (1), a different fine could apply (e.g., illegal possession of an elk -- \$200 to \$800, imprisonment up to six months, or both).

Bill 14 would provide that violators could pay a fine for violation of sections 33-6-125 and 33-6-126 (1), through a penalty assessment procedure and such fine would be the same whether guilt is acknowledged by the penalty assessment procedure or is determined by a court. If a fine for violations of sections 33-6-125 and 33-6-126 (1) is not specified by statutory schedule, then the provisions of section 33-6-127 (2) would apply (fine of \$25 up to \$300, imprisonment from 10 to 90 days, or both).

Payment of the fine specified by a penalty assessment notice would be required within 15 days (the current limitation is five days) of the date of acceptance of such notice.

Duties and Functions of
Division of Parks and Outdoor Recreation

Committee members heard testimony from representatives of the Division of Parks and Outdoor Recreation and reviewed Colorado statutes which prescribe the duties, powers, and activities of the division. The division is responsible for the preservation, protection, enhancement, and management of scenic, natural, and outdoor recreation areas owned or leased by the state; and is further responsible for comprehensive outdoor recreation, planning, and administration of the Land and Water Conservation Fund and a state trails system.

Among the duties and powers of the Board of Parks and Outdoor Recreation (pursuant to sections 33-30-104 and 105, C.R.S. 1973) reviewed were:

- (1) Promulgating rules, regulations, and orders relating to parks and outdoor recreation programs;
- (2) Controlling, managing, developing, and maintaining all state parks, state recreation areas and state monuments;
- (3) Establishing parks and outdoor recreation uses for the areas, lakes, properties, and facilities under its control;
- (4) Enforcing laws, rules, and regulations relating to parks and outdoor recreation areas;
- (5) Cooperating with the Division of Wildlife to assure maximum development and protection of wildlife habitats;
- (6) Acquiring by gift, transfer, lease, purchase, or long-term operating agreement such land and water, or interest in land and water, as the director, with the approval of the executive director, deems necessary, suitable or proper for parks or outdoor recreation purposes;
- (7) Leasing, exchanging, or selling any property, water, land, or interest in land; and
- (8) Entering into cooperative agreements with state and other agencies...for the development and promotion of parks and outdoor recreation programs.

The committee concluded that no changes are necessary in Colorado statutes on the powers and duties of the Division of Parks and Outdoor Recreation. Furthermore, no additional responsibilities should be assigned the division.

However, it was found that statutes dealing with senior resident park privileges require clarification and that a park fee increase is appropriate and necessary to meet the rising costs of maintaining and operating all of the state parks and campgrounds. Therefore, the committee recommends Bill 15 which addresses these two issues. Bill 16, which would authorize the Division of Parks and Outdoor Recreation to acquire land within the boundaries of Golden Gate State Park is also recommended by the committee.

Fees for Certain Parks Passes and Senior Resident Identification Cards -- Bill 15

It costs approximately \$3 million annually to maintain and operate all of the state parks and campgrounds but present fees account for only about \$1 million of the needed revenue. It was a consensus of the committee members that present park pass fees are too low and that in order for recreational areas to be properly operated, maintained, and managed, the people who use the parks will have to

assume greater financial responsibility for park maintenance and upkeep.

Bill 15 would provide that the fee for an annual parks pass would be increased from \$5.00 to \$10.00. In addition, the fee for the one-day parks pass would be increased from \$1.00 to \$2.00, and the boat number certificate fee would be raised from \$3.50 to \$5.00.

The committee concluded that the Division of Parks and Outdoor Recreation should be responsible for determining the costs of different uses of the state parks and requested that the division provide, during the 1977 session, proposals for a new fee formula which would produce a designated percentage of revenue needed to meet the annual operating expenses for state parks.

The bill would also entitle Colorado residents 64 years of age and older to purchase for the period of their residency a \$2.00 senior resident parks identification card called the "Aspen Leaf Passport". This "passport" would entitle the bearer to a half-price fee for each camping permit, a free annual parks pass for each vehicle owned in whole or in part by the bearer, and a free one-day park pass for any vehicle which is occupied by the bearer.

Concerning Acquisition of Land at Golden Gate State Park -- Bill 16

The Division of Parks and Outdoor Recreation is authorized to "acquire by gift, transfer, lease, purchase or long-term operating agreement such land and water, or interest in land and water as...necessary, suitable or proper for parks or outdoor recreation purposes." (section 33-30-105(1)). The committee concurs with the division's wish to purchase certain properties within Golden Gate State Park, and recommends Bill 16 which would give the division the authority to acquire those properties. An additional appropriation for land acquisition would not be necessary since the division would be allowed to spend funds already allocated.

Powers and Duties of Deputy Director of Department of Natural Resources

Testimony was given that the Executive Director of the Department of Natural Resources is a voting member on a substantial number of state boards and commissions. Several of these boards and commissions meet at the same date on a monthly or quarterly basis, making it impossible for the Executive Director to fulfill all the responsibilities he is assigned.

Duties of Deputy Director of Department of Natural Resources -- Bill
17

Bill 17 is recommended which would allow the deputy director of the department to appear and to vote on behalf of the Executive Director on the various state boards and commissions of which the director is a member. The bill further authorizes the deputy director, when so instructed, to perform any statutory duties given the Executive Director to act as the Executive Director in the Executive Director's absence, and to perform any other duties assigned by the Executive Director.

COMMITTEE ON WILDLIFE

BILL 10

A BILL FOR AN ACT

1 CONCERNING THE PRESERVATION OF NATURAL RESOURCES, AND PROVIDING
2 CERTAIN MANAGEMENT AND OTHER POLICIES FOR THE IMPLEMENTATION
3 THEREOF.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides a legislative declaration for the division of wildlife and places a legislative declaration for the division of parks and outdoor recreation in article 30 of title 33, C.R.S. 1973.

4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. 33-1-101, Colorado Revised Statutes 1973, is
6 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

7 33-1-101. Legislative declaration. It is the policy of the
8 state of Colorado that populations of all species of wildlife in
9 Colorado shall be preserved and managed for the use, benefit, and
10 enjoyment of present and future human generations, and that
11 habitat areas necessary to sustain such wildlife populations and
12 to accommodate public use of such wildlife populations shall be
13 protected, acquired, restored, developed, managed, or otherwise

1 provided. It is further declared that this policy shall be
2 implemented through a comprehensive planning and management
3 process that identifies and measures public needs and desires and
4 carries out programs which efficiently meet such public needs and
5 desires insofar as the total wildlife resource is capable of
6 doing.

7 SECTION 2. Article 30 of title 33, Colorado Revised
8 Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to
9 read:

10 33-30-100.2. Legislative declaration. (1) It is the
11 policy of the state of Colorado that the wildlife and their
12 environment and the natural, scenic, scientific, and outdoor
13 recreation areas of this state are to be protected, preserved,
14 enhanced, and managed for the use, benefit, and enjoyment of the
15 people of this state and visitors to this state. It is further
16 declared to be the policy of this state that there shall be
17 provided a comprehensive program of outdoor recreation in order
18 to offer the greatest possible variety of outdoor recreation
19 opportunity to the people of this state and its visitors and that
20 to carry out such program and policy there shall be a continuous
21 operation of planning, acquisition, and development of outdoor
22 recreation lands, waters, and facilities.

23 (2) No wildlife cash funds shall be expended on or in state
24 parks or recreation areas except where such expenditures will
25 enhance wildlife values as determined by the wildlife commission,
26 and hunting and fishing will be permitted when such moneys are
27 expended unless such area has been closed by the division of

1 wildlife.

2 (3) In implementing the policy set forth in subsection (1)
3 of this section, the state shall:

4 (a) Attempt to develop state parks and natural environment
5 recreation areas suitable for such recreational activities as
6 camping, picnicking, hiking, horseback riding, sightseeing,
7 fishing, and water sports other than swimming;

8 (b) Advise the citizens of this state and its visitors of
9 the location of state parks and recreation areas through the
10 distribution of maps and the use of other appropriate
11 informational devices;

12 (c) Not be responsible for development of neighborhood
13 parks or recreation areas that are mainly designed to provide
14 facilities for team or individual sports;

15 (d) Not charge a fee or require a permit for the use of any
16 state park or natural environment recreation area unless
17 continual supervision and maintenance is required or unless
18 certain facilities, as determined by the board of parks and
19 outdoor recreation, are maintained at any such area.

20 SECTION 2. Safety clause. The general assembly hereby
21 finds, determines, and declares that this act is necessary for
22 the immediate preservation of the public peace, health, and
23 safety.

COMMITTEE ON WILDLIFE

BILL 11

A BILL FOR AN ACT

1 CONCERNING AGENCY RELATIONSHIPS OF THE DEPARTMENT OF NATURAL
2 RESOURCES, AND RELATING TO THE SALE OF LICENSES AND OTHER
3 PERMITS OF THE DIVISION OF WILDLIFE AND THE DIVISION OF
4 PARKS AND OUTDOOR RECREATION.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires a license agent for the division of wildlife and the division of parks and outdoor recreation to be a sole proprietor, partnership, or corporation having a permanent business location in Colorado. Provides that the wildlife commission and the board of parks and outdoor recreation, respectively, may authorize certain employees to sell licenses, permits, stamps, passes, cards, and certificates.

5 Be it enacted by the General Assembly of the State of Colorado:

6 SECTION 1. 33-4-112 (1) and (9) (b), Colorado Revised
7 Statutes 1973, as amended, are amended, and the said 33-4-112 is
8 further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

9 33-4-112. License agents - reports - board of claims.

10 (1) The director of the division of wildlife or the division of
11 parks and outdoor recreation, respectively, shall designate
12 ~~persons-----throughout~~ SOLE PROPRIETORS, PARTNERSHIPS, OR

1 CORPORATIONS HAVING A PERMANENT BUSINESS LOCATION IN the state of
2 Colorado as license agents to sell hunting, fishing, trapping,
3 and boat licenses and other permits, stamps, passes,
4 certificates, cards, and licenses of the division of wildlife and
5 the division of parks and outdoor recreation. License agents
6 shall be paid a commission of five percent of all moneys
7 collected for licenses and permits sold. All agents authorized
8 to sell licenses shall keep accurate records of all sales of
9 licenses, permits, passes, certificates, stamps, and cards and
10 shall make such reports to the respective division regarding
11 license, permit, pass, certificate, stamp, and card sales as may
12 be required. Such ~~persons~~ AGENTS shall be required to give bond
13 in such amount as may be fixed by the respective division to
14 insure the remittance of all moneys collected from such license,
15 permit, pass, certificate, stamp, and card sales, less amounts
16 allowed as commissions, and the making of reports required by the
17 respective division. All license, permit, pass, certificate,
18 stamp, and card moneys received shall be kept separate and apart
19 from any other funds of the ~~person~~ AGENT authorized to sell
20 licenses and shall at all times belong to the state. All moneys
21 due from the sale of wildlife and parks licenses, permits,
22 stamps, passes, cards, and certificates shall belong to the state
23 and shall draw interest at the rate of one and one-half percent
24 per month from the time when due until paid. Any such ~~person~~
25 AGENT who fails, upon demand of the respective division or its
26 authorized representative, to account for licenses and permits or
27 who fails to pay over to the respective division or its

1 authorized representative moneys received from the sale of
2 licenses, passes, certificates, stamps, cards, and permits is
3 guilty of theft and, upon conviction thereof, shall be punished
4 pursuant to the penalty provisions for classes of crimes as
5 designated by section 18-4-401, C.R.S. 1973.

6 (9) (b) Any ~~person~~ AGENT who buys or sells such licenses,
7 permits, stamps, passes, cards, or certificates without being a
8 license agent in good standing, or who sells such licenses,
9 permits, stamps, passes, cards, or certificates for an amount
10 different from the face value thereof, or who fails to present
11 unsold licenses, permits, stamps, passes, cards, or certificates
12 for redemption as required by the wildlife commission or the
13 board of parks and outdoor recreation commits a class 4 felony
14 and shall be punished as provided in section 18-1-105, C.R.S.
15 1973.

16 (10) The wildlife commission and the board of parks and
17 outdoor recreation, respectively, may authorize certain employees
18 to sell licenses, permits, stamps, passes, cards, and
19 certificates at the headquarters and regional offices for the
20 face value thereof. Such employees are not entitled to five
21 percent of the face value of the license and are not required to
22 post bond. Such employees may make a claim under oath for relief
23 from responsibility for stamps, passes, cards, certificates,
24 licenses, and permits or moneys which have been lost, stolen, or
25 destroyed and for which the employee is unable to account, in
26 accordance with the provisions of subsections (4) to (8) of this
27 section.

1 SECTION 2. Safety clause. The general assembly hereby
2 finds, determines, and declares that this act is necessary for
3 the immediate preservation of the public peace, health, and
4 safety.

COMMITTEE ON WILDLIFE

BILL 12

A BILL FOR AN ACT

1 CONCERNING THREATENED SPECIES.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Conforms article 8 of title 33, C.R.S. 1973, to reflect the 1975 addition of the definition of threatened species and provides a penalty subsection for the violation of certain provisions relating thereto.

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 33-8-101, Colorado Revised Statutes 1973, is
4 amended to read:

5 33-8-101. Short title. This article shall be known and may
6 be cited as the "Nongame, and Endangered, OR THREATENED Species
7 Conservation Act".

8 SECTION 2. 33-8-102, Colorado Revised Statutes 1973, is
9 amended to read:

10 33-8-102. Legislative declaration. The general assembly
11 finds and declares that it is the policy of this state to manage
12 all nongame wildlife for human enjoyment and welfare, for
13 scientific purposes, and to insure their perpetuation as members
14 of ecosystems; that species or subspecies of wildlife indigenous
15 to this state which may be found to be endangered OR THREATENED

1 within the state should be accorded protection in order to
2 maintain and enhance their numbers to the extent possible; that
3 this state should assist in the protection of species or
4 subspecies of wildlife which are deemed to be endangered OR
5 THREATENED elsewhere; and that adequate funding be made available
6 to the division of wildlife annually by appropriations from the
7 general fund and that portion of the wildlife cash fund collected
8 pursuant to the provisions of section 33-1-126 for management of
9 nongame, and endangered, OR THREATENED species.

10 SECTION 3. 33-8-105 (1) and (2), Colorado Revised Statutes
11 1973, are amended, and the said 33-8-105 is further amended BY
12 THE ADDITION OF A NEW SUBSECTION, to read:

13 33-8-105. Endangered or threatened species. (1) On the
14 basis of investigations of nongame wildlife provided for in
15 section 33-8-104 and other available scientific and commercial
16 data and after consultation with other state wildlife agencies,
17 appropriate federal agencies, and other interested persons and
18 organizations, the commission shall by regulation establish a
19 list of those species and, where necessary, subspecies of
20 wildlife indigenous to this state which are determined to be
21 endangered OR THREATENED within this state, giving their common
22 and scientific names by species and, where necessary, by
23 subspecies.

24 (2) The commission shall periodically conduct a review of
25 the state ~~list~~ LISTS of endangered OR THREATENED species and may
26 amend the ~~list~~ LISTS by such additions or deletions as are deemed
27 appropriate.

1 (4) Except as otherwise provided in this article, it is
2 unlawful for any person to take, possess, transport, export,
3 process, sell or offer for sale, or ship and for any common or
4 contract carrier to knowingly transport or receive for shipment
5 any species or subspecies of wildlife appearing on the list of
6 wildlife indigenous to this state determined to be threatened
7 within the state pursuant to subsection (1) of this section.

8 SECTION 4. 33-8-106, Colorado Revised Statutes 1973, is
9 amended to read:

10 33-8-106. Management programs. (1) The division shall
11 establish such programs including acquisition of land or aquatic
12 habitat as are deemed necessary for management of nongame, and
13 endangered, OR THREATENED wildlife.

14 (2) In carrying out programs authorized by this section,
15 the division may enter into agreements with federal agencies or
16 political subdivisions of this state or with private persons for
17 administration and management of any area established under this
18 section or utilized for management of nongame, ~~or~~ endangered, OR
19 THREATENED wildlife.

20 (3) The commission may permit, under such terms and
21 conditions as may be prescribed by regulation, the taking,
22 possession, transportation, exportation, or shipment of species
23 or subspecies of wildlife which appear on the state ~~list~~ LISTS of
24 endangered OR THREATENED species for scientific, zoological, or
25 educational purposes, for propagation in captivity of such
26 wildlife, or for other special purposes.

27 (4) Upon good cause shown and where necessary to alleviate

1 damage to property or to protect human health, endangered OR
2 THREATENED species may be removed, captured, or destroyed but
3 only pursuant to permit issued by the division and, where
4 possible, by or under the supervision of an agent of the
5 division. Provisions for removal, capture, or destruction of
6 nongame wildlife for the purposes set forth in this subsection
7 (4) shall be set forth in regulations issued by the commission
8 pursuant to section 33-8-104 (1).

9 SECTION 5. 33-8-108, Colorado Revised Statutes 1973, is
10 amended BY THE ADDITION OF A NEW SUBSECTION to read:

11 33-8-108. Enforcement. (3) Any person who violates the
12 provisions of section 33-8-105 (4) or any regulations issued
13 pursuant thereto or fails to procure or violates the terms of any
14 permit issued under section 33-8-106 (3) and (4) is guilty of a
15 misdemeanor and, upon conviction thereof, shall be punished by a
16 fine of two hundred dollars, or by imprisonment in the county
17 jail for not more than three months, or by both such fine and
18 imprisonment.

19 SECTION 6. Safety clause. The general assembly hereby
20 finds, determines, and declares that this act is necessary for
21 the immediate preservation of the public peace, health, and
22 safety.

COMMITTEE ON WILDLIFE

BILL 13

A BILL FOR AN ACT

1 CONCERNING STATE RECREATION AREAS, AND TRANSFERRING THE
2 ADMINISTRATION OF MIRAMONTE AND HIGHLINE LAKE STATE
3 RECREATION AREAS TO THE DIVISION OF WILDLIFE.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Transfers the administration of Miramonte and Highline lake state recreation areas from the division of parks and outdoor recreation to the division of wildlife.

4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Legislative purpose - transfer of Miramonte and
6 Highline lake state recreation areas to the division of wildlife.

7 It is the purpose of this section to transfer the administration
8 of Miramonte state recreation area and Highline lake state
9 recreation area from the division of parks and outdoor recreation
10 in the department of natural resources to the division of
11 wildlife in the department of natural resources.

12 SECTION 2. Repeal. 33-1-124 (2) (p) and (2) (w), Colorado
13 Revised Statutes 1973, are repealed.

14 SECTION 3. Effective date. This act shall take effect July

COMMITTEE ON WILDLIFE

BILL 14

A BILL FOR AN ACT

1 CONCERNING PENALTIES IMPOSED FOR VIOLATIONS OF LAW RELATING TO
2 WILDLIFE AND PARKS AND OUTDOOR RECREATION.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Amends certain penalty provisions of wildlife and parks and outdoor recreation law, provides that a penalty assessment notice may be given if a fine is established by statutory schedule for the violation involved, extends the time for payment of such fine after acceptance of such notice, and provides that violators shall be fined according to such schedule whether guilt is acknowledged by the penalty assessment procedure or determined by a court. Repeals a misdemeanor penalty section and the fine for willful destruction of wildlife.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 33-6-125, Colorado Revised Statutes 1973, is
5 amended to read:

6 33-6-125. Wildlife - other than big game - illegal acts.

7 It is unlawful for any person, at any time of the year or in any
8 manner, to pursue, wound, take, acquire, offer or expose for
9 sale, or have in possession any wildlife, other than big game,
10 that is the property of this state, as provided in section
11 33-1-104, except as permitted by this title or by regulation of

1 the commission. Any person who violates any of the provisions of
2 this section is guilty of a misdemeanor and, upon conviction
3 thereof, shall be punished as provided in section 33-6-127. {2}.

4 SECTION 2. 33-6-126 (1), Colorado Revised Statutes 1973, as
5 amended, is amended to read:

6 33-6-126. Big game - illegal acts. (1) It is unlawful for
7 any person, at any time of the year or in any manner, to pursue,
8 wound, take, acquire, ~~offer--er--expese--fer--sale~~, or have in
9 possession any big game that is the property of this state, as
10 provided in section 33-1-104, except as permitted by this title
11 or by regulation of the commission. Any person who violates any
12 of the provisions of this subsection (1) is guilty of a
13 misdemeanor and, upon conviction thereof, shall be punished as
14 provided in section 33-6-127. {9}-{a}.

15 SECTION 3. 33-6-127 (11) and the introductory portion to
16 33-6-127 (12), Colorado Revised Statutes 1973, as amended, are
17 amended to read:

18 33-6-127. Penalties and penalty assessments. (11) At the
19 time that any person is arrested for violating any provisions of
20 this title or any rules or regulations made or adopted under
21 this title, the arresting officer may give to the alleged
22 offender an opportunity to voluntarily pay the fine in the form
23 of a penalty assessment ~~as-set-ferth~~ IF ONE IS ESTABLISHED in the
24 schedule of fines in subsection (12) of this section. The
25 penalty assessment notice given to the alleged offender shall
26 contain the information required in, and be in the form of, a
27 summons and complaint. If the alleged offender accepts such

1 notice, then such acceptance shall constitute an acknowledgment
2 of the guilt by such person of the violation set forth in the
3 penalty assessment notice and an agreement on such person's part
4 to pay the fine specified in the schedule contained in subsection
5 (12) of this section for the violation involved, at the offices
6 of the division of wildlife or the division of parks and outdoor
7 recreation, whichever is proper, in Denver, Colorado, either in
8 person or by mail, within five FIFTEEN days after the date of
9 arrest. Acceptance and payment of the prescribed fine shall be
10 deemed a complete satisfaction of the violation, and the violator
11 shall be given a receipt which so states when such fine is paid.
12 Checks tendered by the violator to and accepted by the
13 appropriate division and on which payment is received by such
14 division shall be deemed sufficient receipt. If the fine is not
15 paid, then the arresting officer shall docket the summons and
16 complaint with a court of competent jurisdiction for appearance
17 by the alleged violator to answer the charges therein contained
18 at such time and place as set out in the summons and complaint
19 served on the alleged violator at the time of the arrest. The
20 provisions of this subsection (11) shall not apply to violations
21 not enumerated in subsection (12) of this section.

22 (12) Every person who is convicted of a violation of any of
23 the provisions of this title or any rule or regulation made or
24 adopted under this title to which the provisions of subsection
25 (11) of this section apply shall be fined in accordance with the
26 following schedule, WHETHER THE VIOLATOR ACKNOWLEDGES HIS GUILT
27 IN ACCORDANCE WITH THE PROCEDURE SET FORTH BY SUBSECTION (11) OF

1 THIS SECTION OR IS FOUND GUILTY BY A COURT OF COMPETENT
2 JURISDICTION:

3 SECTION 4. Repeal. 33-6-127 (9) (a) and (12) (y), Colorado
4 Revised Statutes 1973, as amended, are repealed.

5 SECTION 5. Safety clause. The general assembly hereby
6 finds, determines, and declares that this act is necessary for
7 the immediate preservation of the public peace, health, and
8 safety.

COMMITTEE ON WILDLIFE

BILL 15

A BILL FOR AN ACT

1 CONCERNING THE DIVISION OF PARKS AND OUTDOOR RECREATION, AND
2 PROVIDING FOR CERTAIN PASSES, PERMITS, CARDS, AND
3 CERTIFICATES THEREFROM.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases fees for certain parks passes and certificates and lowers the required age from 65 to 64 for senior resident identification cards which entitle such resident to free parks passes and camping permits for one-half the scheduled fee.

4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. 33-4-106 (2) (a) (I), (2) (a) (II), and (2) (a)
6 (IV) and (2) (b) (I), Colorado Revised Statutes 1973, as amended,
7 are amended to read:

8 33-4-106. Miscellaneous licenses, permits, stamps, cards,
9 passes, and certificates - fees. (2) (a) (I) Annual parks pass,
10 five TEN dollars;
11 (II) One-day parks pass, ~~one-dollar~~ TWO DOLLARS;
12 (IV) Boat number certificate, ~~three~~ FIVE dollars; ~~and-fifty~~
13 cents;

1 (b) (I) Notwithstanding the provisions of paragraph (a) of
2 this subsection (2), any resident of this state as defined in
3 section 33-1-102 (29) who is ~~sixty-five~~ SIXTY-FOUR years of age
4 or over may obtain from the division of parks and outdoor
5 recreation, for a two-dollar charge, ~~any--pass--or--certificate~~
6 ~~giving--access-to-any-state-park-or-recreation-area-or-permitting~~
7 ~~the--use--of--such--park--or--area~~ A SENIOR RESIDENT PARKS
8 IDENTIFICATION CARD, DESIGNATED AS AN "ASPEN LEAF PASSPORT",
9 WHICH CARD SHALL BE VALID for the period of his residency. ANY
10 SUCH RESIDENT POSSESSING SUCH CARD SHALL PAY TO THE DIVISION OF
11 PARKS AND OUTDOOR RECREATION ONE-HALF THE SCHEDULED FEE AS SET BY
12 RULE OR REGULATION PROMULGATED BY THE BOARD OF PARKS AND OUTDOOR
13 RECREATION FOR EACH CAMPING PERMIT. ANY SUCH RESIDENT POSSESSING
14 SUCH CARD MAY IN EACH CALENDAR YEAR OBTAIN FROM THE DIVISION OF
15 PARKS AND OUTDOOR RECREATION, WITHOUT CHARGE, ONE ANNUAL PARKS
16 PASS FOR EACH VEHICLE OWNED IN WHOLE OR IN PART BY SUCH RESIDENT.
17 ANY SUCH RESIDENT POSSESSING SUCH CARD MAY OBTAIN FROM THE
18 DIVISION OF PARKS AND OUTDOOR RECREATION, WITHOUT CHARGE, A
19 ONE-DAY PARKS PASS FOR ANY VEHICLE HE OCCUPIES AS A DRIVER OR
20 PASSENGER WHEN ENTERING A STATE PARK OR RECREATION AREA, WHETHER
21 OR NOT SUCH RESIDENT HAS AN OWNERSHIP INTEREST IN SAID VEHICLE.
22 EACH ANNUAL OR ONE-DAY PARKS PASS SO ISSUED SHALL BE AFFIXED TO
23 THE VEHICLE FOR WHICH ISSUED IN THE MANNER PRESCRIBED BY RULE OR
24 REGULATION PROMULGATED BY THE BOARD OF PARKS AND OUTDOOR
25 RECREATION, AND IT SHALL ENTITLE SUCH RESIDENT TO THE PRIVILEGES
26 OF A PARKS PASS FOR THE YEAR OR DAY FOR WHICH ISSUED.

27 SECTION 2. Effective date. This act shall take effect July

1 1, 1977.

2 SECTION 3. Safety clause. The general assembly hereby
3 finds, determines, and declares that this act is necessary for
4 the immediate preservation of the public peace, health, and
5 safety.

COMMITTEE ON WILDLIFE

BILL 16

A BILL FOR AN ACT

1 CONCERNING THE ACQUISITION OF LANDS BY THE DIVISION OF PARKS AND
2 OUTDOOR RECREATION AT GOLDEN GATE STATE PARK.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the division of parks and outdoor recreation to acquire land or interests in land situated within the boundaries of Golden Gate state park.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Legislative purpose - acquisition of lands by
5 the division of parks and outdoor recreation. It is the purpose
6 of this section to authorize the division of parks and outdoor
7 recreation in the department of natural resources to acquire land
8 or interests in land situated within the boundaries of Golden
9 Gate state park for fair and adequate consideration from funds
10 already appropriated together with other federal funds that are
11 available for the purpose of acquiring such land or interests.

12 SECTION 2. Footnote 12 of section 3 of chapter 15, Session
13 Laws of Colorado 1971, is amended to read:

14 Section 3. Capital construction appropriation.

1 12/ Department of Natural Resources - Parks - Golden Gate Land
2 Acquisition - For the purchase of ~~not-less-than-240-acres-of~~
3 ~~land--known-as-the-"Gilman-property";-located-in-T:2S;-R:71W~~
4 ~~Section-29-and-that-portion--of--Section--30--contiguous--to~~
5 ~~Section--29--in-Jefferson-County~~ INTERESTS IN LANDS OR LANDS
6 SITUATED WITHIN THE BOUNDARIES OF GOLDEN GATE STATE PARK.

7 SECTION 3. Safety clause. The general assembly hereby
8 finds, determines, and declares that this act is necessary for
9 the immediate preservation of the public peace, health, and
10 safety.

COMMITTEE ON WILDLIFE

BILL 17

A BILL FOR AN ACT

1 CONCERNING THE DEPUTY DIRECTOR OF THE DEPARTMENT OF NATURAL
2 RESOURCES, AND RELATING TO THE DUTIES AND RESPONSIBILITIES
3 THEREOF.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that the executive director of the department of natural resources shall appoint the deputy director and that the deputy director shall perform any statutory duties, act as executive director in the absence of the executive director, and perform other duties assigned by the executive director.

4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. 24-33-102, Colorado Revised Statutes 1973, is
6 amended BY THE ADDITION OF A NEW SUBSECTION to read:

7 24-33-102. Powers and duties of the executive director and
8 deputy director. (6) The executive director shall appoint a
9 deputy director of the department of natural resources, pursuant
10 to section 13 of article XII of the state constitution. Subject
11 to the supervision of the executive director, the deputy director
12 shall have all of the powers, duties, and responsibilities of the
13 executive director as provided by law and shall exercise such

1 powers, duties, and responsibilities in the absence of the
2 executive director and when so instructed by the executive
3 director.

4 SECTION 2. Safety clause. The general assembly hereby
5 finds, determines, and declares that this act is necessary for
6 the immediate preservation of the public peace, health, and
7 safety.

LEGISLATIVE COUNCIL
COMMITTEE ON FINANCE

Members of the Committee

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Sen. Lorena Darby
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Council Staff

Dennis Jakubowski
Research Associate

Stephen F. Harper
Research Assistant

*Resigned November 13, 1976, due to appointment to the
Joint Budget Committee.

COMMITTEE ON FINANCE

The Committee on Finance was directed by the Legislative Council to address a number of issues which may be categorized under three general subject headings.

I. Energy Impact Assistance: State and local energy impact problems resulting from the development or expansion of energy-related projects.

II. Public Employees Retirement Association: The funding of the Public Employees Retirement Association.

III. Tax Relief: The merits of providing an increase in the standard income tax deduction for those citizens who are 65 and older. Subsequently, the committee received permission from the Legislative Council to study the additional topic of property tax relief.

I. Energy Impact Assistance

Much of the committee's efforts concentrated on the prospects for energy development in Colorado, placing particular emphasis on the effects such future development might have upon the social, economic, and environmental character of communities proximate to significant energy-related projects. The rapid influx of new residents that frequently accompanies the development or expansion of such projects can be expected to place increased demands upon a community's ability to provide such essential services and facilities as water and sewer systems, fire and police departments, and public schools. It was generally recognized that such in-migrations have a much greater effect upon smaller communities, with their relative inexperience with rapid development and insignificant financial resources, than upon the larger, more urbanized ones. Examples were cited of what can happen to a small community which, because of its proximity to accessible deposits of one or more natural resources or to an energy resource facility, becomes a "boom town".

Through its investigation of this phenomenon, most of the members of the committee concluded that the prospect for "boom town" development, and the realization of its deleterious effects, is real. Moreover, there was some general agreement that something should be done to overcome the financial incapacities of local governments so that they, in the face of actual energy development impact, will be able to solve their own problems to the largest practicable extent. With this in mind, the committee reviewed several particular financial impact problems.

Primary Financial Impact Problems

Among the particular problems, the following were identified as primary: front-end financing; tax base/impact separation; relative underassessment of coal and non-metals; and the inaccessibility of the impacted local governments to national bond markets.

Front-end financing. In the event of significant new energy development in an area, there will probably be a need to finance new or expanded public facilities, a need experienced prior to the receipt of any new or additional property tax revenue from the development or its employees. This simply means that there is often a time lag between the occurrence of impact and the availability of resources to alleviate that impact.

Tax base/impact separation. Development and its effects are seldom respectors of political boundaries. An energy-related development may locate in County A, while its effects, such as increased population, may predominately impact County B. Similarly, a development may locate in an unincorporated sector of a county, while its effects are principally borne by an incorporated municipality in the same county. In both cases, the new tax base and resulting revenues, and much of the need for the new tax base and revenues are separated by jurisdictional boundaries.

Relative under-assessment of coal and non-metals. There is no uniform system for the assessment of all types of mineral-bearing property in Colorado. Relative to metals and oil-gas, coal and non-metals are significantly under-assessed. Whereas the former are assessed on a production-value basis, the latter are assessed using the "six-factor formula" applied to other classes of real property. The result of this under-assessment is that taxing jurisdictions with access to large amounts of coal lands, for example, are at a disadvantage compared to those with similar access to oil and gas lands.

Inaccessibility of national bond market. One financial resource traditionally available to many governmental entities is the bond market. The issuance of bonds or debentures by special districts, municipalities, or counties has been quite common. A combination of circumstances, however, precludes many of the Colorado jurisdictions likely to face energy-related impacts from utilizing that resource. The recent controversy surrounding the salability of municipal bonds and the relatively miniscule tax base of these units, to cite two particular problems, either entirely foreclose the bonding alternative, or make it prohibitively expensive due to the high interest rates that must be paid to entice investors.

Committee Deliberations and Recommendations

Several draft bills relative to energy-related impact were considered, each of which would provide a different mechanism of financial assistance. Among the several, the committee recommends

only one, a bill which would establish a special fund to provide assistance to areas that are suffering the negative effects of energy-related development. The recommended bill is discussed below, as are the proposals which were not recommended.

Energy Impact Assistance Fund -- Bill 18. The committee recommends Bill 18, which would establish an Energy Impact Assistance Fund, to be administered by the Department of Local Affairs, providing assistance to areas affected by energy conversion or mineral resource development industries. To aid the department in its administrative capacity, the bill creates the "Energy Impact Advisory Committee", composed of the Executive Directors of the Departments of Local Affairs, Natural Resources, Education, and Highways, and the director of the Colorado Water Conservation Board.

The sources of money for this fund are two-fold: (1) the interest on the Oil Shale Trust Fund proceeds; and (2) the full amount of additional monies to be received from the federal government under the terms of the recently amended Federal Mineral Lands Leasing Act. Under the federal law, the percentage of monies returned to individual states from which the federal government receives bonuses, royalties, and rentals has been increased from 37.5 percent to 50 percent.

It is estimated that the funds realized through these two sources in the first year will be approximately \$6 million, with \$2.7 million accruing from the interest and the remaining \$3.3 million from the additional 12.5 percent allowed under the federal law. The first year receipts will set a ceiling on the money available for disbursement by the Department of Local Affairs in that and subsequent years. Any receipts in excess of that first-year ceiling will go into the state's general fund.

Up to that maximum, the department would be empowered to issue grants and loans to municipalities, counties, school districts, and special districts, for comprehensive planning and construction and maintenance of impact-related projects. Special districts, in order to receive assistance from the fund, would be required to have the consent of the county commissioners of the county and the governing bodies of the municipalities in which they are located.

To receive funds, the local government or special district must be located in an impact area, the needed project cannot be adequately furnished by conventional planning or financing sources, and the project will be leased to or owned by a local government, special district, or state agency. There will also be adequate provision for the payment of the cost of acquisition, construction, operation, maintenance, and upkeep of the project.

No grant or loan is to be made for any single project beyond a five year period from the beginning of the project. Assistance can be terminated if it is found that the local government can maintain the project using its own resources.

If the department feels that additional monies are needed to alleviate the deleterious or harmful effects of energy-related development, it may request the additional monies from the General Assembly.

At the end of the ten-year period for which this bill would be effective, all monies previously earmarked for the Energy Impact Assistance Fund will revert directly to the state's general fund, while the disbursement mechanism will continue in operation until all previously received monies are spent.

Assessment of coal. The committee considered, but submits no recommendation to modify coal assessment practices. The committee wanted to review the results of the discussions that the coal industry and the County Assessor's Association were undertaking on the subject, but these results were not available for the committee's last session.

Prepayment of taxes. The committee considered, but does not recommend, two draft bills which would attack the problem of providing "front-end" money to local governments by establishing a mechanism for the prepayment of property taxes by what is termed "major new industrial facilities". One bill would have authorized prepayment on a voluntary basis, while the other would have authorized municipalities and counties to require prepayment of property taxes by such facilities locating within their respective boundaries. For the purposes of both measures, "major new industrial facility" means a manufacturing, power generation, or mining facility employing 100 people on an average annual basis and creating a "substantial impact on governmental services". As defined, "major new industrial facility" would apply to industrial developments in general, not just those related to energy.

Regional taxing districts. Another draft proposal reviewed, but not recommended, would have established a mechanism for the sharing of property tax revenues from major industrial facilities by governmental entities within an "impact region". The bill would have provided that the assessed valuation on such a facility in excess of \$50 million be certified as the valuation for assessment for the impact region within which it is located. The initial \$50 million would remain as the valuation for assessment by the county, municipality, school district, and special districts within whose boundaries the facility lies.

The proposed draft included two mutually exclusive alternative ways of distributing the revenues produced by the application of the mill levy to the excess assessed valuation: (1) in accordance with the present formula for the distribution of general revenue-sharing funds; or (2) on the basis of where the employees of such a facility actually reside.

Bonding. The final draft proposal considered, but not submitted with recommendation, would have established the "Colorado Energy Impact Authority" as a political subdivision of the state, similar to the Colorado Housing Finance Authority. The authority would have the

power to issue grants and loans to local governments, guarantee local bond issues, and establish special funds for the purpose of assisting local governments in the alleviation of the problems caused by the development or expansion of energy conversion and mineral resource development industries.

II. Public Employees Retirement Association

A formula was established in H.B. 1364 (1975 session) to adjust P.E.R.A. benefits of existing retirees to restore lost purchasing power. The committee recommends that this "catch-up" formula be funded at 100 percent for fiscal year 1977-78. Since the bill was enacted into law in 1975, the formula is based upon the cumulative increases in the Consumer Price Index through the completed 1974 year. Monies for these cost-of-living adjustments utilize state general funds. The formula was funded at 30 percent (\$1.7 million) for fiscal year 1975-76 and at 50 percent (\$2.8 million) for fiscal year 1976-77. P.E.R.A. estimates that it should not cost more than \$2.8 million to fund the formula at 100 percent for fiscal year 1977-78.

III. Tax Relief

Addressing the question of income tax relief, in accordance with the study directive, the committee members were in essential agreement that the property tax constitutes a more significant problem for elderly and low-income citizens than does the tax on income. Upon reaching that consensus, the committee received permission from the Legislative Council to investigate the issue of property tax relief for those citizens.

Attention was focused upon two alternative forms of property tax relief: 1) expanding the amount of relief already provided to those who are eligible, i.e., increasing the credit allowed those who are 65 and older; or 2) extending the eligibility for relief to include more of those who really need help, e.g., those between the ages of 60 and 65, or low-income people regardless of age. It was the sentiment of many that the latter approach would be better advised, since Colorado, relative to other states, already provides a significant amount of property tax relief to its eligible population, and since the extension of eligibility to greater numbers of people would more directly address the problem of need, rather than simply the issue of age.

Though testimony was taken on the actual cost of extending property tax relief to people under 65 in the manner discussed above, the committee deferred action on the matter. The Colorado Property Tax or Rent Credit Claim Form (104 PTC), as printed by the Department

of Revenue, was reviewed. Several members expressed concern that the section of the document enumerating the items that are not to be included in the claimant's calculation of net worth may be too obscure to be of any real assistance. In light of those concerns, the committee recommends that the Property Tax or Rent Credit Claim Form (104 PTC) be revised by the Department of Revenue. Specifically, it was suggested that the following sentence be printed in bold face type in any forms subsequently printed:

THE FOLLOWING ITEMS ARE NOT TO BE INCLUDED IN DETERMINING WHETHER YOU MEET THE \$30,000 LIMITATION: YOUR OWNER OCCUPIED RESIDENCE, YOUR AUTOMOBILE, YOUR FURNITURE, AND YOUR CLOTHING. ALSO EXCLUDE ANY AMOUNTS OWED ON THESE ITEMS. NO OTHER ITEMS MAY BE EXCLUDED.

COMMITTEE ON FINANCE

BILL 18

A BILL FOR AN ACT

1 CONCERNING THE ESTABLISHMENT OF A SPECIAL FUND TO PROVIDE
2 ASSISTANCE TO AREAS IMPACTED BY ENERGY CONVERSION OR MINERAL
3 RESOURCE DEVELOPMENT INDUSTRIES.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Establishes a temporary fund to provide assistance in the form of grants and loans to municipalities, counties, school districts, and certain special districts affected by energy conversion or resource development industries. Charges the department of local affairs, with the assistance of the energy impact assistance advisory committee herein created, to administer said fund.

Provides that the amount of interest earned from the investment of the oil shale trust fund and the increase in the state share of federal lease moneys recently authorized by Congress which accrue to the state during the state's next fiscal year are to be credited to the special fund, and the total amount of such moneys are to serve as an upper limit on credits to such fund from such sources during subsequent fiscal years, with additional moneys from such sources credited to the general fund. Permits the department to request additional moneys from the general assembly for the fund as necessary. After the passage of a stated number of years, moneys which had been credited to the fund are to be credited to the general fund.

4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Title 24, Colorado Revised Statutes 1973, as
6 amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 68

Energy Impact Assistance for Local Governments

24-68-101. Short title. This article shall be known and may be cited as the "Energy Impact Assistance Fund Act".

24-68-102. Legislative declaration. (1) The general assembly hereby finds and declares that the location and expansion of energy conversion or mineral resource development industries in this state will result in the imposition of extreme burdens on existing services and facilities of counties, municipalities, school districts, and special districts. The general assembly further finds and declares that the local governments in this state likely to face extremely rapid growth from energy and mineral resource development are predominantly rural in character; that such local governments will be forced to construct new governmental facilities to accommodate sudden population growth; that the usual method of meeting such increased burdens, the local general property tax system, does not provide the necessary funds at an early enough date to permit local officials to do the necessary planning and construction to meet these increased demands; and that the issuance of bonds to raise needed revenues often is difficult and costly when undertaken by such local governments.

(2) It is the purpose of this article to provide a means by which local governments in this state which are being impacted by energy conversion or mineral resource development industries can provide needed facilities and services to their citizens.

24-68-103. Definitions. As used in this article, unless

1 the context otherwise requires:

2 (1) "Committee" means the energy impact assistance advisory
3 committee created by section 24-68-106.

4 (2) "Department" means the department of local affairs.

5 (3) "Fund" means the energy impact assistance fund created
6 by section 24-68-104.

7 (4) "Impact areas" means those areas of the state which are
8 likely to experience financial difficulty in providing public
9 services or civic facilities caused by energy conversion or
10 mineral resource development industries.

11 (5) "Impact-related project" or "project" means a public
12 service or a civic facility, including, but not limited to,
13 schools, water systems, sewer facilities, wastes disposal sites,
14 roads, streets, highways, curbs, gutters, sidewalks, storm
15 sewers, street lighting, parking facilities, airports, hospitals,
16 nursing homes, recreation facilities, fire protection facilities,
17 court facilities, police facilities, and general administrative
18 facilities, including lands, buildings, improvements, real and
19 personal properties or any interest therein, or any combination
20 thereof, which is necessary for the health, welfare, and safety
21 of the residents of impact areas.

22 (6) "Local government" means a municipality, county, school
23 district, or special district organized under article 3 or 4 of
24 title 32, C.R.S. 1973.

25 24-68-104. Energy impact assistance fund - created -
26 administration by the department of local affairs. (1) All
27 moneys received by the state under the provisions of section

1 34-63-102 (4), C.R.S. 1973, and all moneys earned from the
2 investment of the oil shale special fund under the provisions of
3 section 34-63-104 (2), C.R.S. 1973, from July 1, 1977 through
4 June 30, 1978, shall be credited by the state treasurer to a
5 separate fund to be known as the energy impact assistance fund,
6 which fund is hereby created.

7 (2) All moneys received by the state pursuant to subsection
8 (1) of this section during each yearly period from July 1, 1978
9 through June 30, 1987, shall also be credited to the fund by the
10 state treasurer; except that the amount of moneys credited to the
11 fund from such sources during any yearly period shall not exceed
12 the amount of moneys credited to the fund during the yearly
13 period specified in subsection (1) of this section. The state
14 treasurer shall credit any moneys received by the state during
15 any of such yearly periods in excess of the amount received and
16 credited to the fund under subsection (1) of this section to the
17 general fund.

18 (3) On or after July 1, 1987, all moneys received by the
19 state from the sources specified in subsection (1) of this
20 section shall be credited to the general fund by the state
21 treasurer. All moneys in the fund as of such date shall remain
22 therein. Administration of the fund shall continue until all
23 moneys in such fund are expended.

24 (4) The fund shall be administered by the department of
25 local affairs, in collaboration with the energy impact assistance
26 advisory committee established by section 24-68-106, so as to
27 provide local governments located in impacted areas with moneys

1 for comprehensive planning and for the planning, construction,
2 and maintenance of impact-related projects.

3 (5) The department shall establish standards and criteria
4 as are necessary in the implementation of the provisions of this
5 article.

6 24-68-105. Grants and loans to local governments. (1) The
7 department is authorized to make grants or loans to
8 municipalities, counties, and school districts and, with the
9 consent of the county commissioners in the counties and of the
10 governing bodies in the municipalities where located, to any
11 special district organized pursuant to article 3 or 4 of title
12 32, C.R.S. 1973, for comprehensive planning and for the planning,
13 construction, and maintenance of impact-related projects, upon a
14 finding that:

15 (a) The local government is located in an impact area;

16 (b) The needed project cannot be adequately furnished by
17 conventional planning or financing sources; and

18 (c) The project will be leased to or owned by a local
19 government or state agency, and adequate provision has been, or
20 will be, made for the payment of the cost of acquisition,
21 construction, operation, maintenance, and upkeep of the project.

22 (2) The department may hold such hearings concerning any
23 project with such procedures and upon such notice as it deems
24 reasonable.

25 (3) No grants or loans shall be made by the department to a
26 local government for any project on or after five years from the
27 date of the initial grant or loan, or for the continued financing

1 of a project which can be financed by the local government
2 through conventional financing sources.

3 24-68-106. Energy impact assistance advisory committee
4 created. There is hereby created the energy impact assistance
5 advisory committee. The committee shall be composed of the
6 executive director of the department of local affairs, the
7 executive director of the department of natural resources, the
8 executive director of the department of education, the executive
9 director of the state department of highways, and the director of
10 the Colorado water conservation board in the department of
11 natural resources. The executive director of the department of
12 local affairs shall act as chairman of the committee. Members of
13 the committee shall serve without additional compensation. Any
14 member of the committee may designate representatives of his
15 agency to serve on the committee in his absence. The chairman
16 shall convene the committee from time to time as he in his
17 discretion deems necessary.

18 24-68-107. Department of local affairs to request
19 additional moneys as needed. If at any time the executive
20 director of the department makes a determination that moneys in
21 the fund are not sufficient for the implementation of the
22 provisions of this article in assisting local governments in
23 impact areas in the financing of necessary projects, he shall
24 request the general assembly to appropriate additional moneys as
25 are necessary to the fund.

26 24-68-108. Receipt of gifts and grants authorized. The
27 fund may receive and utilize gifts and grants from private or

1 federal or other governmental sources in addition to the moneys
2 provided by this article.

3 SECTION 2. 34-63-101, Colorado Revised Statutes 1973, is
4 amended to read:

5 34-63-101. State treasurer to hold royalties. In
6 accordance with the provisions of section 35 of the federal oil
7 MINERAL LANDS leasing act of February 25, 1920, as amended, the
8 state treasurer is directed to receive and hold such sums of
9 money as may after June 30, 1953, be payable by the secretary of
10 the treasury of the United States to this state, as its share of
11 sales, bonuses, royalties, and rentals of public lands, for the
12 benefit of the public schools of this state, and for the benefit
13 of the several counties of this state in which said public lands
14 are located and from which said sales, bonuses, royalties, and
15 rentals are derived, AND FOR THE BENEFIT OF THOSE AREAS OF THE
16 STATE WHICH ARE LIKELY TO EXPERIENCE ADVERSE ECONOMIC EFFECTS
17 FROM ENERGY CONVERSION OR MINERAL RESOURCE DEVELOPMENT
18 INDUSTRIES.

19 SECTION 3. 34-63-102 (1) and (2) (a) and (2) (c), Colorado
20 Revised Statutes 1973, are amended, and the said 34-63-102 is
21 further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22 34-63-102. Apportionment of money. (1) ~~One-third~~
23 ONE-QUARTER of all such money received ON OR after ~~June 30, 1953~~
24 JULY 1, 1977, by the state treasurer pursuant to the provisions
25 of section 35 of the federal oil MINERAL LANDS leasing act of
26 February 25, 1920, as amended, shall, upon receipt, be paid into
27 the state public school fund, to be used for the support of the

1 public schools of this state.

2 (2) (a) ~~The remaining two-thirds~~ AN ADDITIONAL ONE-HALF of
3 ~~such~~ money received ON OR after ~~June-30,-1953;~~ JULY 1, 1977, by
4 the state treasurer pursuant to the provisions of section 35 of
5 the federal ~~oil~~ MINERAL LANDS leasing act of February 25, 1920,
6 as amended, shall, UPON RECEIPT, be paid to the several counties
7 of this state from which said money is derived and used by said
8 counties for the support of public schools and for the
9 construction and maintenance of public roads. The board of
10 county commissioners of any county receiving such money shall
11 apportion such money to public schools and public roads, but not
12 more than seventy-five percent of said money shall be apportioned
13 to either of said purposes during any one year.

14 (c) If, after ~~June-30,-1953;~~ JULY 1, 1977, any new oil
15 fields shall be developed in any county, and money derived from
16 such new oil fields shall be received from the secretary of the
17 treasury of the United States, then, in addition to amounts
18 specified in paragraph (b) of this subsection (2), there shall be
19 paid to the county in which said new oil fields shall be located
20 and from which said money shall be derived, ~~two-thirds~~ ONE-HALF
21 of the amount received therefrom, not to exceed, however, the
22 amount of five hundred thousand dollars annually during the
23 first, second, and third calendar years following such
24 development, which money, when received by the county, shall be
25 apportioned by the board of county commissioners to public
26 schools and public roads as provided in this subsection (2).
27 After the third calendar year, payments to counties shall be made

1 pursuant to the provisions of paragraph (b) of this subsection
2 (2).

3 (4) The remaining one-quarter of money received on or after
4 July 1, 1977, by the state treasurer pursuant to the provisions
5 of section 35 of the federal mineral lands leasing act of
6 February 25, 1920, as amended, shall be credited by the state
7 treasurer into the energy impact assistance fund to be
8 administered by the department of local affairs under the
9 provisions of article 68 of title 24, C.R.S. 1973.

10 SECTION 4. 34-63-104 (2), Colorado Revised Statutes 1973,
11 as amended, is amended to read:

12 34-63-104. Special funds relating to oil shale lands. (2)
13 All moneys earned from the investment of the oil shale special
14 fund established by subsection (1) of this section shall be
15 deposited by the state treasurer into a separate special fund and
16 ~~shall be appropriated by the general assembly primarily to state~~
17 ~~agencies, school districts, and political subdivisions of the~~
18 ~~state affected by the development and production of energy~~
19 ~~resources from oil shale lands for planning and, in the form of~~
20 ~~grants and loans, for providing facilities and services~~
21 ~~necessitated by such development and production and secondarily~~
22 ~~for other state purposes~~ TO BE ADMINISTERED BY THE DEPARTMENT OF
23 LOCAL AFFAIRS UNDER THE PROVISIONS OF ARTICLE 68 OF TITLE 24,
24 C.R.S. 1973.

25 SECTION 5. Effective date. This act shall take effect July
26 1, 1977.

27 SECTION 6. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary for
2 the immediate preservation of the public peace, health, and
3 safety.

LEGISLATIVE COUNCIL
COMMITTEE ON JUDICIARY II

Members of the Committee

Rep. Gerald Kopel,
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Sen. William Hughes
Sen. Ray Kogovsek
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Council Staff

Earl Thaxton
Senior Analyst

Charles S. Brown
Senior Research Assistant

*Resigned November 13, 1976, due to appointment to the Joint
Budget Committee.

COMMITTEE ON JUDICIARY II

Pursuant to House Joint Resolution No. 1047 (1976 session), the Legislative Council assigned the following studies to the Committee on Judiciary II:

- (1) A study of the prosecution of violators of the criminal laws of this state, including the proper role of the state and counties in the financing thereof, and the powers and duties of county, district, and state officers with respect to such prosecution and recommend proposed legislation, including funding thereof, to eliminate duplication, to fill gaps, and to clarify and revise statutory and constitutional provisions relative thereto;
- (2) A study of the feasibility of changes in the tort liability system with respect to the costs of insurance for professional liability and products liability in the private sector and general liability in the public sector, including an examination of the causes and effects of the liability problems; and
- (3) A study of the taxation by the state of survivors' benefits, including the raising of inheritance tax exemptions.

Five meetings were scheduled during the interim. To cover the three study topics in the five meetings, the committee devoted the first two meetings to consideration of the prosecution function, the third meeting to the subject of inheritance tax, and the fourth and fifth meetings to an examination of the tort liability system as it relates to products and professional liability insurance rates.

The committee recognized early in the interim that, because the study topics were broad and comprehensive in nature, full consideration of the many problem areas encompassed by them would be impossible in view of the committee's five meeting schedule. This was particularly apparent since the prosecution study and the tort liability study were originally intended to be two-year studies. Because of the lack of time necessary to devote to each study item, the committee generally recommends that the study of the prosecution function and the tort liability system be continued in the next legislative interim.

The committee recommends three specific bills which merit consideration by the General Assembly. A general discussion of the areas considered by the committee pursuant to each of the study topics and an explanation of the three bills recommended by the committee follows.

Study of the Prosecution System

In its consideration of various problems pertaining to the prosecution of violators of Colorado's criminal laws, the committee received testimony and material from district attorneys and from the Attorney General in an attempt to identify areas of prosecution responsibility which were duplicative and areas where specific responsibility was not clear. Proposed legislation to eliminate duplication, to clarify, and to shift prosecutorial responsibilities was submitted by both district attorneys and the Attorney General.

From the various and sometimes competing proposals, the committee sought to establish areas of agreement among the parties concerned. Those proposals which generated controversy were set aside for additional study and consideration. By following this procedure, two problem areas were identified in the prosecution function on which there was general agreement. Recommendations for statutory change within the two areas of agreement are contained in Bills 19 and 20. Set forth below is a brief explanation of proposals considered by the committee.

Prosecution of state grand jury indictments. Currently, the Attorney General presents evidence to a state grand jury, and any indictment returned is prosecuted by a district attorney. The Attorney General proposed that this system be changed so that the Attorney General would be responsible for both the investigation, and presentation of evidence to the grand jury, and the prosecution of any indictments returned. The Attorney General stated that transferring the prosecution of offenses to the district attorney subsequent to a state grand jury indictment creates additional burdens of cost and inefficiency. It was argued that continuing the expertise developed in the investigation of an offense, through the prosecution of the offense, by utilizing the same prosecutor for both functions, would be a better utilization of resources than the present system.

The district attorneys, on the other hand, proposed that their offices be given authority to present evidence to state grand juries and continue to be responsible for prosecuting indictments. District attorneys stressed that the trial and courtroom experience of their offices is necessary in the prosecution of state grand jury indictments, and that this experience is not available to the Attorney General's office. The current practice followed by district attorneys allows the Attorney General's investigator to participate in the prosecution of an indictment, but not as the lead prosecutor. The traditional responsibility of district attorneys for criminal prosecutions was also advanced as an argument in favor of district attorney prosecution of state grand jury indictments.

The committee takes no position on the proposed changes and makes no recommendations in this area. More analysis and study is necessary before a solution to this dispute can be found. For this reason, the committee recommends that a study of this area of the prosecution system be continued during the next legislative interim.

Authority to prosecute criminal appeals. Pursuant to the present statutes, the Attorney General must prosecute and defend all cases in which the state is a party in the appellate courts. The district attorneys proposed that this requirement be changed to give district attorneys sole authority to prosecute criminal appeals. This suggestion was made in view of the superior courtroom experience of district attorneys and for the purpose of maintaining the continuity of one prosecutor through both the trial and subsequent appeals.

The Attorney General argued that the current practice of granting the district attorney the first right to refuse the appeal or to assume jurisdiction in the event that the Attorney General confesses error makes the district attorneys' proposal unnecessary. It was also asserted that the Attorney General's office has the expertise to handle appeals, whereas district attorneys' offices are affected by high turnover rates and do not maintain high levels of appellate expertise.

The committee takes no position on the proposed changes and makes no recommendations in this area. More analysis and study is necessary before a solution to this dispute can be reached. For this reason, the committee recommends that the study of the prosecution function be continued during the next legislative interim.

Prosecution of restraint of trade and commerce violations. Testimony presented to the committee confirmed the multi-jurisdictional nature of most restraint of trade or commerce violations and the corresponding need for a unified state prosecution of such crimes. The district attorneys and the Attorney General agreed that enforcement of the anti-trust statutes should be handled by the Attorney General, and draft bills to accomplish this enforcement were submitted to the committee. Bill 19, which grants sole authority to the Attorney General to prosecute anti-trust violations, is recommended by the committee.

This bill would vest exclusive authority in the Attorney General of not only the civil jurisdiction which the Attorney General now has in this area, but also the exclusive authority to prosecute criminal anti-trust cases, which authority is currently vested in the district attorneys. This proposal will give the Attorney General the full range of available alternatives necessary to carry out the anti-trust responsibilities.

Prosecution for violations of the consumer protection laws. Final authority for the enforcement of the Consumer Protection Act (6-1-101, et seq.) is presently vested in the Attorney General. However, the committee found that a great number of consumer complaints in the state are being handled by the district attorneys. An example of district attorney activity in the consumer protection area is the Metropolitan Denver D.A. Consumer Fraud Office.

District attorneys have exclusive authority under present law to enforce most of the consumer-crime laws under the Criminal Code.

Rather than face the present complexities of delegation of the authority to the district attorneys under the present law, the district attorneys, with the agreement of the Attorney General, proposed a bill which would vest authority to enforce the law in both the district attorneys and the Attorney General concurrently. In this way, all available methods of enforcing the consumer fraud and protection laws can be utilized. The committee recommends Bill 20 for consideration in the 1977 session of the General Assembly.

Centralization or coordination of prosecution functions. Several proposals for centralizing the prosecution function or coordinating prosecution efforts throughout the state were considered by the committee. Two alternative proposals to coordinating prosecution policy were presented by the Attorney General. The first alternative would consist of a grant of prosecutorial preemption to the Attorney General, so that he could either override or direct any district attorney prosecution when he deemed it to be in the public interest. The second alternative would involve an amendment to the state Constitution to remove district attorneys from the elective process. The district attorneys would then be transferred to an office of state prosecution, similar to the office of the State Public Defender.

It was argued by the Attorney General that such a coordinated prosecution system, under either proposal, would provide more flexibility than the present fractionalized system, and that criminal prosecutions could be conducted more efficiently and effectively. It was argued that a centralized and coordinated prosecution system could achieve other reforms in the criminal justice system, such as the elimination of plea bargaining, a requirement that preliminary hearings be held within 72 hours of arrest, a requirement that trials be initiated within 90 days of arrest, and a requirement that a case, including appeal, be disposed of in state courts within one year of arrest. These reforms could be achieved through a coordinated prosecution system, it was asserted, because the efficiency of the system could dispose of the backlog of cases.

The district attorneys opposed the proposals on the basis that the present system of non-centralization and district attorney independence encourages the health and vitality of the system. In addition, it was argued that placing the prosecution function in the Judicial branch of state government may be unconstitutional as a violation of the separation of powers principle. Also, centralization does not necessarily achieve efficiency.

The district attorneys maintain: (a) that their election is essential to guarantee responsiveness to the people, and to safeguard the necessary independence of the prosecutor; (b) the strength of the present system is that a prosecutor is free to investigate and prosecute all crimes, and to exercise his discretion to see that justice is done, but he must regularly go before the people to justify his actions and ability; and (c) under a state-wide centralized system, the people would have no control over the prosecutor in their jurisdiction, and one person or agency would be in a position to obstruct independent investigation and prosecution.

In response to the reforms suggested by the Attorney General, district attorneys stated that arbitrary hearing, trial and disposition deadlines, and elimination of plea bargaining would not allow for inevitable contingencies, and are impractical. Plea bargaining is often a useful tool to prosecutors in enforcing the law and allowing prosecutor discretion. If plea bargaining were eliminated, caseloads of the courts would increase, along with the workload of the district attorneys, and an increase in cost would result.

The committee concluded that it could not act on any of the proposals because of the lack of necessary information to evaluate the impact of the proposals in terms of cost, personnel, and improvement in the criminal justice area. More analysis and study is necessary in this area and the committee recommends continuation of the effort in the next legislative interim.

State Department of Criminal Justice. Presently, criminal justice agencies are spread among various principal departments of state government, with no central direction or focus. The district attorneys proposed to the committee a bill which would consolidate the various criminal justice agencies into a single Department of Criminal Justice. The proposal does not call for a new agency or bureaucracy, but for consolidation to provide greater responsibility and direction.

State agencies which would be considered for transfer into such a department include the Colorado State Patrol, the Colorado Law Enforcement Training Academy, the Colorado Bureau of Investigation, the Division of Criminal Justice, the Division of Correction and Parole, and a new Division of Prosecution Services. This latter division, as proposed by the district attorneys, would formally recognize the District Attorneys Association as the proper entity in which prosecution efforts could be coordinated and assistance could be available to solving various prosecution problems. The division would coordinate the criminal appellate function, provide centralized training, and act as a central office for the transfer of funds to the local district attorneys. However, the district attorneys would continue to be elected and independent.

Various concerns were explored by the committee, including the concern that the proposal would eventually lead to a state-wide centralized prosecution system, much like that which was proposed by the Attorney General. The proposal was supported on the basis that cooperation between law enforcement agencies and prosecutors is essential and that the proposal would foster that cooperation. It was argued that the Division of Corrections and Parole belongs in the department because it shares reduction of crime as a common goal with the law enforcement and prosecuting divisions of the department. On the other hand, it was argued that only law enforcement agencies should be included and correctional agencies should not be included. It was suggested also that if the State Patrol were to be included in the proposed department, it should be considered to be a state police agency to be funded from the state's general fund. The proposal was particularly criticized because it would integrate the prosecution

function horizontally, but not vertically, and the amalgamation of many type 1 agencies in one department is unprecedented in state government.

As with the other proposals to establish a centralized prosecution system on the state level, more analysis and study is necessary before making any recommendations concerning the proposed Department of Criminal Justice. The committee recommends that this item receive further study during the next legislative interim.

State reimbursement of prosecution expense. The district attorneys presented information concerning the many problems faced by district attorneys, particularly those in multi-county judicial districts, in funding and budgeting for the operation of the office. To help alleviate these problems, the district attorneys proposed a bill for committee consideration which would require state reimbursement to the county for one-half of each county's payment for the support of the office of the district attorney.

Questions as to whether or not the proposal would resolve the problems between counties in multi-county districts over district attorney funding, the proposal's exact fiscal impact on the state, and whether the proposal would separate taxing and spending authorities were not resolved by the committee. More information needs to be developed and other alternatives examined prior to adoption or rejection of a state funding formula for district attorneys. Thus, it is recommended that this subject receive additional study during the next legislative interim.

Professional Liability and Product Liability Problems

Two meetings were devoted to consideration of the causes and effects of problems in the professional liability and product liability areas. Various proposals to change or alter the tort liability system as it relates to professional liability claims and product liability claims were offered by representatives of commerce and industry, the insurance industry, and professional groups.

Summary of proposed changes to the tort liability system. Outlined below are the major proposals received for change in the present tort liability system.

(1) Establishment of a six-year statute of limitations from the time of delivery of the product to the first user. Under this suggestion, claims would need to be filed within two years of the injury date.

(2) Establishment of a ceiling on awards in products liability cases.

(3) Modification of the collateral source rule.

(4) Establishment of the defense of contributory negligence or in the alternative that of comparative negligence in all products liability cases.

(5) Abolishment of the doctrine of strict liability in product liability cases.

(6) Establishment of review boards composed of fully competent and technically trained hearing officers to hear and screen product liability cases.

(7) Allow conformity with governmental manufacturing standards and independent testing organizations to be an acceptable defense in product liability cases.

(8) Allow any alteration or modification of the product on the part of the injured party to be an acceptable defense in product liability cases.

(9) Establishment of a graduated scale to regulate attorney contingency fees.

(10) Establishment of a frivolous suit statute which would permit the court to award attorney fees and court costs to the defendant in a frivolous suit.

(11) Elimination of the ad damnum clause in product liability cases.

(12) Enactment of legislation relating to the state of the art when the product was manufactured.

(13) Enactment of legislation requiring separate trials for liability and damages.

(14) Enactment of legislation which would clarify the inter-relationship of workmen's compensation and product liability cases as they relate to exclusive remedy and subrogation.

(15) Establish limitations on the award of damages for pain and suffering and place restrictions on the award of punitive damages.

In addition to these suggested changes to the present tort liability system, more far-reaching proposals were offered which, to some extent, would eliminate the tort-litigation approach toward resolving product liability disputes. These proposals include the following:

(1) An "elective" no-fault approach as developed by Professor Jeffrey O'Connell of the University of Illinois. Under this approach to products liability, manufacturers are allowed to elect to place certain risks that may be caused by their products under a no-fault system. This approach, it is argued, would diminish the likelihood of

disputes concerning coverage and causation because the manufacturer could be very specific about the product risks he was placing under no-fault.

(2) A suggestion that workmen's compensation be the sole source of recovery for workers injured in the course of employment and granting immunity from suit to third parties.

(3) Requiring mandatory arbitration of all products liability claims.

Committee Findings. In general, the committee found that there is a lack of data essential to evaluate the magnitude of these problems of liability on Colorado businesses and professions. Various nationwide studies currently are being conducted by private and governmental organizations in an attempt to obtain the information necessary to make informed judgments on these problems and the most feasible solutions to the problems. The problems are nationwide in scope and an attempt to solve a problem in Colorado might have a very small effect on the overall problem. If legislation is necessary, a federal law or some type of uniform state law may be the most desirable solution.

Committee recommendations. Any recommendation or action at this time to amend Colorado's tort law as it relates to professional liability and product liability claims is inappropriate. Additional information is necessary to evaluate the scope and magnitude of the problems, which effect the insurance industry, and the businesses and manufacturers that need liability insurance coverage. Additional time is essential to scrutinize the proposed changes and the impact these proposals would have on injured parties, the insurance industry, and the various industries, manufacturers, businesses, and professions. The committee, therefore, recommends that the Fifty-first General Assembly direct the Legislative Council to appoint a committee to continue the study of this subject during the next legislative interim.

Taxation of Survivors' Benefits and Inheritance Taxation

The subject of inheritance and succession taxation of pension benefits, with the general subject of inheritance taxation, were the subjects of one committee meeting. Of particular interest was the subject of state inheritance taxation of military retirement benefits. There has been some confusion and misunderstanding surrounding a 1975 amendment (H.B. 1704) to the statute which pertains to the taxation of survivors' benefits and the committee attempted to determine whether the 1975 amendment altered the taxation of such benefits and to determine the exact intent and impact of the amendment.

Following testimony concerning the legislative history of the statutory section (39-23-107, C.R.S. 1973), the committee determined that pension benefits have been taxable under both the 1967 and 1975

versions of the statute and have been subject to the same \$75,000 exemption and rate of tax since 1967. To aid in clarifying some of the confusion and misunderstanding in regard to the 1975 amendment, the staff was directed to prepare a memorandum explaining the legislative history of section 39-23-107 for circulation to all interested persons. Copies of this memorandum are available in the Legislative Council offices.

Testimony by representatives of the Retired Enlisted Mens' Association and the Retired Officers' Association indicated there are differences between military retirement plans and other retirement and annuity plans. It was stressed that 39 states and the federal government do not tax the military plans. Under the military retirement plans, annuities are forfeited if the beneficiary remarries, the right to designate beneficiaries is limited, and annuity payments under the plan are discontinued if the beneficiary subsequently qualifies for and receives social security benefits. Testimony was also received that exemption levels have not been changed to keep pace with inflation. Since benefits have increased over the past several years and exemption levels have remained the same, actual inheritance taxes on pension plans have increased.

Three proposed bills dealing with the taxation of military retirement plans were considered. The bill approved by the committee, Bill 21, is designed to achieve three purposes. First, the bill would amend section 39-23-107, C.R.S. 1973, to provide that payments from pension plans subject to certain conditions are not taxable. These conditions consist of a requirement in the terms of the pension plan that payments thereunder will be discontinued if the beneficiary remarries or qualifies for and receives social security benefits. If the pension plan imposes these requirements, payments under such plans shall not be taxable.

Secondly, the bill would increase the basic exemptions from inheritance tax. The exemption for transfers to a surviving spouse would be increased from \$30,000 to \$200,000; exemptions for transfers to children under 16 years of age would be increased from \$15,000 to \$100,000; and exemptions for transfers to any other person in Class A would be increased from \$10,000 to \$85,000. Exemptions for transfers to any person in Class B would be increased from \$3,000 to \$15,000, and exemptions for transfers to any person in Classes C and D would be increased from \$500 to \$5,000 and \$1,000, respectively.

Thirdly, the bill would repeal the \$75,000 exemption with respect to the proceeds of life insurance, annuity contracts with life insurance companies, and payments made pursuant to pension and profit sharing plans.

The fiscal impact of Bill 21 on state revenues from inheritance and succession tax was not determined. The Division of Inheritance and Gift Tax was not able to provide the information necessary to determine the fiscal impact. The division is currently engaged in a computerized data gathering project, and the division assured the

committee that, upon completion of the project, they will be capable of providing the necessary information relative to projecting the fiscal impacts of amendments to the inheritance and succession tax laws. The committee concluded that the proposed changes contained in Bill 21 merit consideration by the General Assembly.

A proposal to amend the inheritance tax law to provide a definition of "fair market value" was also discussed. This proposal would allow agricultural land to be valued at its earning or productive capacity, rather than by the market value method. It was argued that earning or productive capacity is a more accurate basis on which to value agricultural land than on factors totally unrelated to the land's capacity to produce. The committee did not have sufficient time to consider the full impact and implications of this proposal and makes no recommendations thereon.

COMMITTEE ON JUDICIARY II

BILL 19

A BILL FOR AN ACT

1 CONCERNING THE AUTHORITY TO PROSECUTE CERTAIN LEGAL ACTIONS, AND
2 GIVING THE ATTORNEY GENERAL SOLE AUTHORITY TO PROSECUTE
3 CIVIL AND CRIMINAL ACTIONS FOR RESTRAINT OF TRADE OR
4 COMMERCE.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that the attorney general has sole authority to prosecute civil and criminal actions for restraint of trade or commerce.

5 Be it enacted by the General Assembly of the State of Colorado:

6 SECTION 1. 6-4-104, Colorado Revised Statutes 1973, is
7 amended to read:

8 6-4-104. Prosecution of criminal proceedings by attorney
9 general - limitation. ~~No person; - corporation; - company; - firm; - or~~
10 ~~association suspected of violating any one or more of the~~
11 ~~provisions of this article shall be proceeded against criminally~~
12 ~~other than by indictment.~~ THE ATTORNEY GENERAL SHALL PROSECUTE
13 ALL CRIMINAL PROCEEDINGS FOR VIOLATION OF ANY OF THE PROVISIONS
14 OF THIS ARTICLE. All criminal proceedings brought under this

1 article shall be commenced within six years after the act
2 complained of occurred, and not afterwards.

3 SECTION 2. 6-4-105, Colorado Revised Statutes 1973, is
4 amended to read:

5 6-4-105. Attorney general to institute action to restrain
6 formation of contract or combination. The district courts may
7 prevent or restrain, by injunction or otherwise, the formation of
8 any such contract or combination or the execution of the purposes
9 thereof. ~~The district-attorneys-shall;-upon-the--advice--of--the~~
10 ~~attorney general who-may-appear-as-counsel-in-any-such-case~~ SHALL
11 HAVE EXCLUSIVE AUTHORITY TO institute such actions or proceedings
12 as ~~they--deem~~ HE DEEMS necessary to prevent or restrain a
13 violation of the provisions of this article, which shall ~~be-begun~~
14 BEGIN by way of a complaint, setting forth the cause and grounds
15 for the intervention of the court and praying that such
16 violation, whether intended or continuing, shall be enjoined or
17 otherwise prohibited. When the parties complained against have
18 been served with a copy of the complaint and cited to answer the
19 same, the court shall proceed, as soon as permitted by its rules,
20 to the hearing and determination of the case. Pending the filing
21 of the answer to such complaint, the court may upon proper notice
22 make such temporary restraining order or prohibition as shall be
23 just. When it appears to the court that the ends of justice
24 require that other persons should be made parties to the action
25 or proceeding, the court may cause them to be brought before it
26 in such manner as it directs.

27 SECTION 3. Effective date - applicability. This act shall

1 take effect July 1, 1977. This act shall apply to any alleged
2 violation or alleged pattern of violations of article 4 of title
3 6, Colorado Revised Statutes 1973, which violation occurs or
4 which pattern of violations commences on or after July 1, 1977.

5 SECTION 4. Safety clause. The general assembly hereby
6 finds, determines, and declares that this act is necessary for
7 the immediate preservation of the public peace, health, and
8 safety.

COMMITTEE ON JUDICIARY II

BILL 20

A BILL FOR AN ACT

1 CONCERNING THE AUTHORITY TO PROSECUTE CERTAIN LEGAL ACTIONS, AND
2 PROVIDING THAT THE ATTORNEY GENERAL AND THE DISTRICT
3 ATTORNEYS HAVE CONCURRENT RESPONSIBILITY FOR ENFORCEMENT OF
4 THE "COLORADO CONSUMER PROTECTION ACT".

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that the attorney general and the district attorneys of the several judicial districts of this state have concurrent responsibility for enforcement of the "Colorado Consumer Protection Act". Repeals section which limited a district attorney's enforcement responsibilities under said act.

5 Be it enacted by the General Assembly of the State of Colorado:

6 SECTION 1. 6-1-103, Colorado Revised Statutes 1973, is
7 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

8 6-1-103. Attorney general and district attorneys
9 concurrently responsible for enforcement. The attorney general
10 and the district attorneys of the several judicial districts of
11 this state are concurrently responsible for the enforcement of
12 this article.

13 SECTION 2. The introductory portion to 6-1-107 (1) and

1 6-1-107 (1) (d) and (1) (e), Colorado Revised Statutes 1973, are
2 amended, and the said 6-1-107 is further amended BY THE ADDITION
3 OF A NEW SUBSECTION, to read:

4 6-1-107. Powers of attorney general and district attorneys.

5 (1) When the attorney general OR A DISTRICT ATTORNEY has cause
6 to believe that any person has engaged in or is engaging in any
7 deceptive trade practice listed in section 6-1-105, he may:

8 (d) Make true copies, at the expense of the attorney
9 general OR DISTRICT ATTORNEY, of any record, book, document,
10 account, or paper examined pursuant to paragraph (c) of this
11 subsection (1), which copies may be offered into evidence in lieu
12 of the originals thereof in actions brought pursuant to sections
13 6-1-109 and 6-1-110; and

14 (e) Pursuant to any order of any district court, impound
15 any sample of property which is material to such deceptive trade
16 practice and retain the same in his possession until completion
17 of all proceedings undertaken under this article. An order shall
18 not be issued pursuant to this paragraph (e) without full
19 opportunity given to the accused to be heard and unless the
20 attorney general OR DISTRICT ATTORNEY has ~~proved~~ PROVEN by clear
21 and convincing evidence that the business activities of the
22 person to whom an order is directed will not be impaired thereby.

23 (2) Nothing in subsection (1) of this section shall be
24 construed to allow a district attorney to enforce the provisions
25 of this article beyond the territorial limits of his judicial
26 district.

27 SECTION 3. 6-1-108 (1), Colorado Revised Statutes 1973, is

1 amended to read:

2 6-1-108. Subpoenas - hearings - rules. (1) The attorney
3 general OR A DISTRICT ATTORNEY, in addition to other powers
4 conferred upon him by this article, may issue subpoenas to
5 require the attendance of witnesses or the production of
6 documents, administer oaths, AND conduct hearings in aid of any
7 investigation or inquiry. ~~and-prescribe-such-forms-and-promulgate~~
8 ~~sueh-rules-as-may-be-necessary-to-administer--the--provisions--of~~
9 ~~this-article.~~

10 SECTION 4. The introductory portion to 6-1-109 (1),
11 Colorado Revised Statutes 1973, is amended to read:

12 6-1-109. Remedies. (1) If any person fails to cooperate
13 with any investigation pursuant to section 6-1-107 or fails to
14 obey any subpoena pursuant to section 6-1-108, the attorney
15 general OR A DISTRICT ATTORNEY may apply to ~~any~~ THE APPROPRIATE
16 district court for an appropriate order to effect the purposes of
17 this article. The application shall state that there are
18 reasonable grounds to believe that the order applied for is
19 necessary to terminate or prevent a deceptive trade practice as
20 defined in this article. If the court is satisfied that
21 reasonable grounds exist, the court in its order may:

22 SECTION 5. 6-1-110, Colorado Revised Statutes 1973, is
23 amended to read:

24 6-1-110. Restraining orders - injunctions - assurances of
25 discontinuance. (1) Whenever the attorney general OR A DISTRICT
26 ATTORNEY has cause to believe that a person has engaged in or is
27 engaging in any deceptive trade practice listed in section

1 6-1-105, he may apply for and obtain, in an action in any THE
2 APPROPRIATE district court of this state, a temporary restraining
3 order, or injunction, or both, pursuant to the Colorado rules of
4 civil procedure, prohibiting such person from continuing such
5 practices, or engaging therein, or doing any act in furtherance
6 thereof. The court may make such orders or judgments as may be
7 necessary to prevent the use or employment by such person of any
8 such deceptive trade practice or which may be necessary to
9 restore to any other person any money or real or personal
10 property which may have been acquired by means of any such
11 practice.

12 (2) Where the attorney general OR A DISTRICT ATTORNEY has
13 authority to institute a civil action or other proceeding
14 pursuant to the provisions of this article, he may accept, in
15 lieu thereof or as a part thereof, an assurance of discontinuance
16 of any deceptive trade practice listed in section 6-1-105. Such
17 assurance may include a stipulation for the voluntary payment by
18 the alleged violator of the costs of investigation and any action
19 or proceeding by the attorney general OR A DISTRICT ATTORNEY and
20 any amount necessary to restore to any person any money or
21 property which may have been acquired by such alleged violator by
22 means of any such deceptive trade practice. Any such assurance
23 of discontinuance accepted by the attorney general OR A DISTRICT
24 ATTORNEY and any such stipulation filed with the court as a part
25 of any such action or proceeding shall be confidential to the
26 parties to the action or proceeding and to the court and its
27 employees; but, upon final judgment by the court that a temporary

1 restraining order or injunction obtained pursuant to subsection
2 (1) of this section has been violated, or an assurance of
3 discontinuance accepted pursuant to this subsection (2) has been
4 violated, or a person has engaged in the same deceptive trade
5 practice as had previously been enjoined pursuant to a final
6 permanent injunction obtained pursuant to subsection (1) of this
7 section, or a person has engaged in the same deceptive trade
8 practice which he previously had agreed to discontinue by
9 acceptance of an assurance of discontinuance under this
10 subsection (2), said assurance of discontinuance or stipulation
11 shall thereupon be deemed a public record and open to inspection
12 by any person. Proof by a preponderance of THE evidence of a
13 violation of such an assurance shall constitute prima facie
14 evidence of a deceptive trade practice for the purposes of any
15 civil action or proceeding brought thereafter by the attorney
16 general OR A DISTRICT ATTORNEY, whether a new action or a
17 subsequent motion or petition in any pending action or
18 proceeding.

19 SECTION 6. 6-1-111, Colorado Revised Statutes 1973, is
20 amended to read:

21 6-1-111. Information and evidence confidential and
22 inadmissible - when. (1) The attorney general OR A DISTRICT
23 ATTORNEY shall not release any information or evidence obtained
24 by him pursuant to the provisions of this article ~~to any district~~
25 ~~attorney or his investigator or~~ to any law enforcement officer
26 for use in any criminal prosecution. The information or evidence
27 produced by the attorney general OR A DISTRICT ATTORNEY under

1 this article shall not be admissible in evidence in any such
2 prosecution. The provisions of this subsection (1) shall not be
3 construed to prevent the attorney general OR A DISTRICT ATTORNEY
4 from disclosing to any ~~district--attorney--or~~ law enforcement
5 officer the fact of the commission of a crime by any person, nor
6 shall the same be construed to prevent any ~~district-attorney-or~~
7 ~~his--investigator---or---any~~ law enforcement officer from
8 independently producing or obtaining the same or similar facts,
9 information, or evidence for use in any criminal prosecution.

10 (2) Subject to the provisions of section 6-1-110 (2), the
11 attorney general OR A DISTRICT ATTORNEY shall not make public the
12 name of any person alleged to have committed a deceptive trade
13 practice during any investigation conducted by him under this
14 article, nor shall the records of investigations or intelligence
15 information of the attorney general OR A DISTRICT ATTORNEY
16 obtained under this article be deemed public records available
17 for inspection by the general public; but this subsection (2)
18 shall not be construed to prevent the attorney general OR A
19 DISTRICT ATTORNEY from issuing public statements describing or
20 warning of any course of conduct or any conspiracy which
21 constitutes a deceptive trade practice, whether on a local,
22 statewide, regional, or nationwide basis.

23 SECTION 7. 6-1-112, Colorado Revised Statutes 1973, is
24 amended to read:

25 6-1-112. Civil penalties. Any person who violates any
26 court order or injunction issued pursuant to this article shall
27 forfeit and pay to the general fund of this state a civil penalty

1 of not more than ten thousand dollars. For the purposes of this
2 section, the court issuing the order or injunction shall retain
3 jurisdiction, and the cause shall be continued. Upon violation,
4 the attorney general OR A DISTRICT ATTORNEY may petition the
5 court for the recovery of the civil penalty. Such civil penalty
6 shall be in addition to any other penalty or remedy available for
7 the enforcement of the provisions of this article and any court
8 order or injunction.

9 SECTION 8. Repeal. 6-1-104, Colorado Revised Statutes
10 1973, is repealed.

11 SECTION 9. Effective date - applicability. This act shall
12 take effect July 1, 1977. This act shall apply to any alleged
13 violation or alleged pattern of violations of article 1 of title
14 6, Colorado Revised Statutes 1973, which violation occurs or
15 which pattern of violations commences on or after July 1, 1977.

16 SECTION 10. Safety clause. The general assembly hereby
17 finds, determines, and declares that this act is necessary for
18 the immediate preservation of the public peace, health, and
19 safety.

COMMITTEE ON JUDICIARY II

BILL 21

A BILL FOR AN ACT

1 CONCERNING THE TAX ON INHERITANCES AND SUCCESSIONS, AND PROVIDING
2 FOR DEDUCTIONS AND EXEMPTIONS PERTAINING THERETO.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that the entire sum of life insurance proceeds (1) is subject to inheritance tax; and (2) may be treated as a transfer in contemplation of death if otherwise presumed or proved to be such a transfer. Provides that payments from pension plans subject to certain conditions are not taxable and increases the basic exemptions from inheritance tax.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 39-23-105 (1) (c), Colorado Revised Statutes
5 1973, as amended, is amended to read:

6 39-23-105. Taxable transfers. (1) (c) In contemplation of
7 the death of the transferor; and any transfer of an interest in
8 property or relinquishment, release, or exercise of a general
9 power of appointment made by a person within two years prior to
10 death, unless shown to the contrary, shall be deemed to have been
11 made in contemplation of death, but no such transfer,
12 relinquishment, release, or exercise prior to such two-year

1 period shall be treated as having been made in contemplation of
2 death. ~~and no portion of the proceeds of life insurance on the~~
3 ~~life of the decedent in excess of the aggregate premiums paid by~~
4 ~~the decedent during the two year period shall be treated as a~~
5 ~~transfer under this subsection (1):~~

6 SECTION 2. 39-23-107 (1), Colorado Revised Statutes 1973,
7 as amended, is amended to read:

8 39-23-107. Proceeds of insurance policies, annuities,
9 pension and profit-sharing plans. (1) Proceeds of life
10 insurance policies on the life of a decedent in which he had any
11 of the incidents of ownership, annuity contracts issued by life
12 insurance companies which are owned by the decedent, and payments
13 by reason of pension or profit-sharing plans in which the
14 decedent had a right to designate beneficiaries, whether or not
15 the decedent contributed to the plan, shall be taxable; EXCEPT
16 THAT, IF, UNDER THE TERMS OF A PENSION PLAN, PAYMENTS BY REASON
17 THEREOF ARE TO BE DISCONTINUED IF THE BENEFICIARY SUBSEQUENTLY
18 REMARRIES OR QUALIFIES FOR AND RECEIVES SOCIAL SECURITY BENEFITS,
19 SAID PAYMENTS SHALL NOT BE TAXABLE.

20 SECTION 3. 39-23-113 (2) (a), Colorado Revised Statutes
21 1973, as amended, is amended to read:

22 39-23-113. Tax exemption. (2) (a) Transfers to a wife or
23 husband shall be taxable only to the extent that the value of the
24 property transferred exceeds ~~thirty~~ TWO HUNDRED thousand dollars;
25 transfers to a minor child under sixteen years of age shall be
26 taxable only to the extent that the value of the property
27 transferred exceeds ~~fifteen~~ ONE HUNDRED thousand dollars; and

1 transfers to any other person in Class A shall be taxable only to
2 the extent that the value of the property exceeds ~~ten~~ EIGHTY-FIVE
3 thousand dollars; but in the event the exempt property and family
4 allowances to the surviving spouse or children are claimed and
5 allowed, such allowances shall not constitute an exemption in
6 excess of that provided in this section; and transfers to any
7 person in Class B shall be taxable only to the extent that the
8 property exceeds ~~three~~ FIFTEEN thousand dollars. No transfer to
9 any person or corporation in Classes C and D shall be taxable
10 unless the value of the property exceeds ~~five-hundred~~ FIVE
11 THOUSAND DOLLARS OR ONE THOUSAND dollars, RESPECTIVELY, in which
12 case the entire transfer shall be taxable. If the decedent is
13 not a resident of this state, then the exemption allowable shall
14 be the proportion of the allowable exemption in the case of
15 residents that the net property taxable by this state bears to
16 the whole net property transferred by the decedent to the
17 transferee.

18 SECTION 4. 39-23-114 (1) (a) (I), Colorado Revised Statutes
19 1973, as amended, is amended to read:

20 39-23-114. Deductions allowed. (1) (a) (I) Debts of the
21 transferor; ~~unless--otherwise--charged--against--the--proceeds--of~~
22 ~~insurance--under--section--39-23-107:--Where--such--proceeds--are--paid~~
23 ~~or--payable--to--the--decedent's--estate--or--exceed--seventy-five~~
24 ~~thousand--dollars;--said--deductions--are--allowable--to--the--extent~~
25 ~~that--such--proceeds--are--paid--or--payable--to--the--estate--or--exceed~~
26 ~~seventy-five--thousand--dollars.~~

27 SECTION 5. Repeal. 39-23-107 (2), Colorado Revised

1 Statutes 1973, as amended, is repealed.

2 SECTION 6. Applicability. The provisions of this act shall
3 apply to the inheritances and successions tax imposed upon the
4 estate or property of any decedent dying on or after January 1,
5 1977.

6 SECTION 7. Safety clause. The general assembly hereby
7 finds, determines, and declares that this act is necessary for
8 the immediate preservation of the public peace, health, and
9 safety.

LEGISLATIVE COUNCIL
COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS II

Members of the Committee

Sen. Ted Strickland, Chairman	Rep. Richard Castro
Rep. Wellington Webb, Vice-Chairman	Rep. Ronald Elliott
Sen. Dennis Gallagher	Rep. William Flanery
Sen. Regis Groff	Rep. Steve Hogan
Sen. William Hughes	Rep. Betty Neale*
	Rep. Betty Orten
	Rep. Carl Showalter
	Rep. Sam Zalden

Council Staff

Joyce Emerson Research Associate	Duane Barnard Senior Research Assistant
Carmine Iadarola Research Assistant	

*Resigned November 13, 1976, due to appointment
to the Joint Budget Committee.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS II

The Committee on Health, Environment, Welfare, and Institutions II held several hearings during the 1976 interim regarding the problems of Colorado's elderly population. Six bills are recommended which would: eliminate mandatory retirement for state employees; provide dental health care, including dentures, to categorically needy persons through Medicaid; upgrade the Colorado Commission on Aging in the state Department of Social Services; and enable the Regional Transportation District to implement a demand-response system for the Handyride buses which serve elderly and handicapped persons. 1/

Mandatory Retirement

During hearings on age discrimination in employment, the committee was told that the present state law which bases retirement of employees covered by the state personnel system on a fixed chronological age of 65 is unjust to the individual who is willing and able to do the required work and is wasteful of human talent, particularly when the services of an individual are needed by the state.

Under present law, an employee under the state personnel system ordinarily must retire upon attaining the age of 65. However, the state Personnel Board is authorized to postpone the retirement of employees in covered positions who will be 65 on their next birthday for a period of up to one year. A second postponement is possible, again up to one year. These postponements are granted by the board when requested by the employing agency "for the good of the service" and when requested by an employee on grounds of financial hardship. Requests are reviewed by a hearing officer and the hearing officer's recommendations are submitted to the board.

According to the Department of Personnel, the estimated number of state employees who will reach age 65 during fiscal year 1976-77 is 240, slightly less than one percent of all regular part-time and full-time employees in the personnel system.

1/ The Legislative Council, at its meeting on December 6, voted to favorably recommend Bills 24, 25, and 26. Bills 22, 23, and 27 are submitted, without recommendation, to the 1977 session of the General Assembly.

During fiscal year 1974-75, a total of 52 extensions were requested; 22 by employees and 30 by agencies. Of the 22 employee requests, 10 were granted and 12 denied; of the 30 agency requests, 23 were granted and seven denied. During fiscal year 1975-76, a total of 29 extensions were requested; six by employees and 23 by agencies. Of the six employee requests, three were granted and three denied; of the 23 agency requests, 19 were granted and four denied.

The committee concluded that a more flexible retirement provision was necessary; one which would allow agencies to retain employees as long as they are physically and mentally capable of performing their jobs.

Elimination of Mandatory Retirement For State Employees -- Bill 22

Bill 22 would eliminate the mandatory retirement age of 65 for state employees. The proposal would make retirement at age 65 voluntary, with continued employment contingent upon performance of duties in accordance with established standards. The employee who would elect to continue employment after attaining age 65 would draw one-half of the regular salary he received at the time he attained the age of 65, plus full retirement benefits payable to him. The provision for one-half salary plus retirement benefits is intended to serve as an economic incentive to the employer, in this case, the state, and to the employee who does not wish to retire at age 65. While it is not recommended that "age" be included in the list of categories which are covered in the discriminatory and unfair employment practices statutes, the committee intends to dispel the conventional wisdom that the appropriate retirement age is 65 and, by so doing, encourage the private sector to follow suit.

Oral Health Care for the Categorically Needy

The directive included a study of oral health problems encountered by the elderly who qualify for old age pension benefits. The Oral Health Task Force (OHTF), comprised of dentists, dental school professors, dental association members, technicians, and consumers, explored various alternatives in an effort to develop a program to meet the dental needs of Colorado's elderly population. The OHTF submitted a report outlining the provisions for a program of dental health care for the categorically needy, which, it was reported, would be a less costly program for the state than a program for the elderly exclusively. Federal matching funds for a categorically needy program would be available under Medicaid. A program specifically for the elderly would have to be financed entirely by the state.

The OHTF's report included recommendations that:

1. A complete range of dental services, including screening,

diagnosis, emergencies, treatment, and dentures, be provided in the program;

2. The target population for the program should include all the categorically needy over the age of 21 with a utilization rate by the target population of 30 percent (Dental services for those under 21 are presently provided through the Medicaid Early Periodic Screening, Diagnosis, and Treatment program.);
3. The cost of the program be computed in the manner illustrated on page 158;
4. Private dental offices be used as the major element of the service delivery system; and
5. Costs of the program be controlled by making a specific appropriation and subsequently monitoring expenditures and amending the appropriate provision of the state plan to limit the scope of benefits when, and if, it becomes necessary because of fiscal limitations.

Dental Care and Dentures -- Bill 23

Bill 23 would include dental health care services in the Colorado Medicaid program. Although the enabling legislation for the Oral Health Task Force's proposal is recommended, additional supporting financial and programmatic data are necessary. Categories of care, average costs per treatment, and utilization rates need to be refined in order that program costs can be more accurately determined prior to consideration of the proposal by the General Assembly during the 1977 session. The Oral Health Task Force is currently reviewing and revising its proposal and the final report of the task force will be completed by the end of December, 1976.

Administration of Programs for the Aging

The charge to the interim committee included a study of specific social problems, such as transportation and education, faced by senior citizens. It was concluded that before an effective study of these particular areas of concern could be made, a better understanding and awareness of the availability of programs and services for the elderly, and the administrative structure for their delivery, was necessary. Throughout the hearings, it became apparent that multiple programs and services are available to the elderly of Colorado from almost a similar number of governmental and private entities.

Among the federal programs and agencies contributing major resources to Colorado service systems for the aged are:

Estimates of Total Value and of Federal and Colorado's
Share of Costs of a Comprehensive Dental Care Program
For the 50,200 Categorically Needy

I. Total Needs for Care and Total Value of Required Services

Category of Care	Percent Needing Care by Category	Number of Treatments	Average Cost per Treatment *	Total Value of Care by Category
Emergencies (relief of pain or infection)	20	10,040	\$ 15.00	\$ 150,600.00
Diagnostic (annual exams and related service)	100	50,200	20.00	1,004,000.00
Prophylaxis (cleaning of natural teeth)	60	30,120	15.00	451,800.00
Restorative dentistry (fillings)	50	25,100	16.00	401,600.00
Oral Surgery (extractions)	30	15,060	27.00	406,620.00
Periodontics (gums and soft tissue treatment)	40	20,080	70.00	1,405,600.00
Endodontics (root canal therapy)	10	5,020	94.00	471,880.00
Prosthodontics (New Dentures)	10	5,020	400.00	2,008,000.00
Denture Maintenance and Service	10	5,020	55.00	276,100.00
Total Direct Care Value				<u>\$6,576,200.00</u>

* Based upon current EPSD & T levels

Value of estimated demand for services
(utilization rate of 30 percent estimated from
comparable experience data = 15,060 claims).

\$1,972,860.00

SOURCE: Oral Health Task Force Report, October 8, 1976, p. 7.

1. The Senior Opportunities and Services, and other programs of the Community Services Administration;
2. Older American Volunteer Programs (Senior Companions, Foster Grandparents, Retired Senior Volunteer Program, and the Program for Local Service of ACTION);
3. The employment programs of the Older American Community Service Employment Act and of the Comprehensive Employment and Training Acts administered by the federal Department of Labor;
4. Capital grant provisions of the Urban Mass Transit Act, administered by the federal Department of Transportation; and
5. Social Security Administration (Title XX) and Administration on Aging programs (Older Americans Act), and several other Health, Education, and Welfare resources which are administered by the Colorado Department of Social Services.

Many of these resources bypass the state level in route from the federal agencies to direct service providers, while others flow through at least six state executive departments. Of the major federal resources cited previously, the state Division of Services to the Aging administers only those resources available under the Older Americans Act.

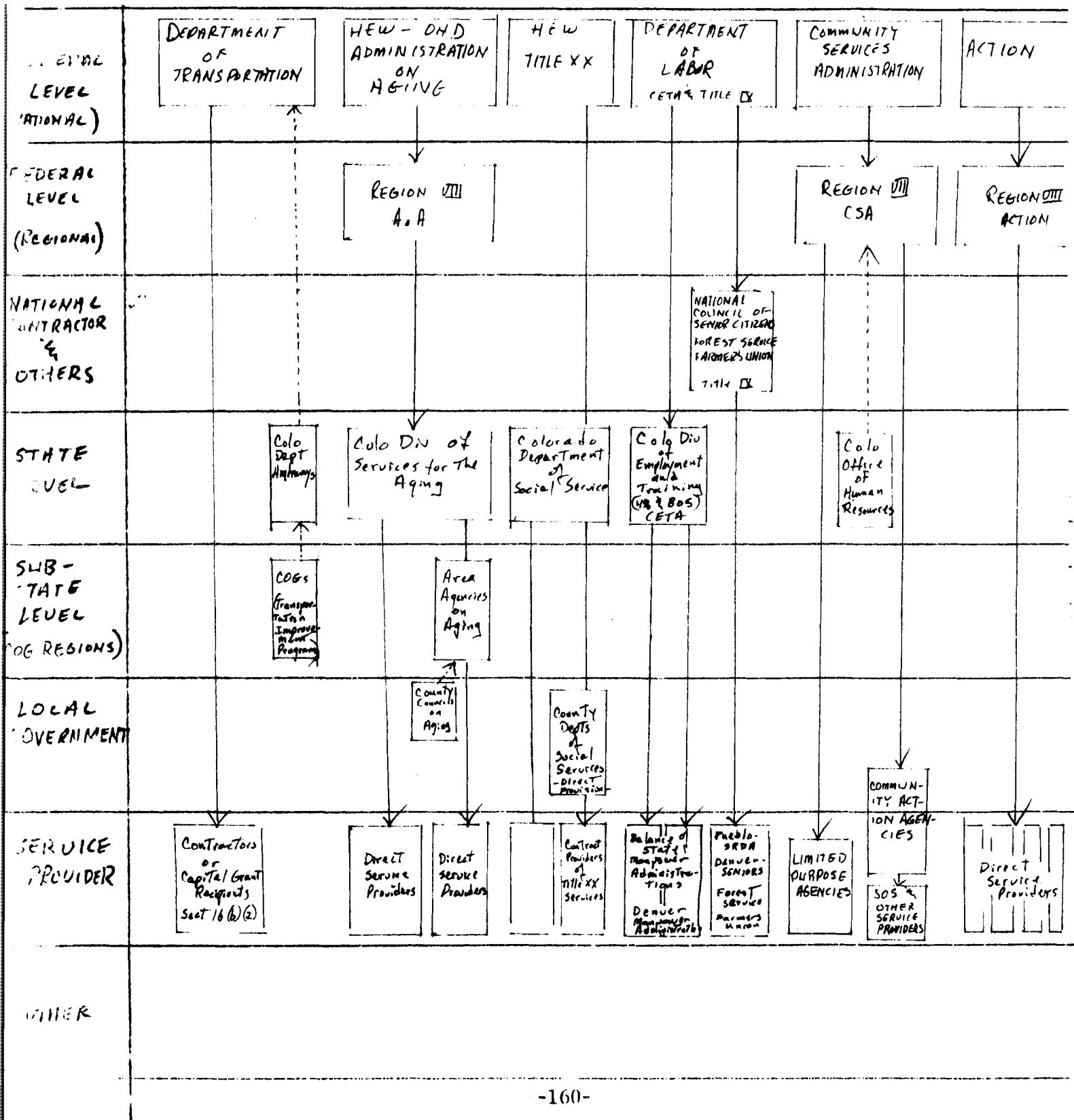
This situation has developed due in part to federal mandates and regulations, and until recently, an apparent lack of interdepartmental coordination at the state level. Chart I, which appears on page 160, illustrates the route of federal funds for programs for Colorado's elderly population.

In recognition of this situation, the committee focused its attention on the programs, duties, and responsibilities of the Division of Services to the Aging in the state Department of Social Services, the unit of state government whose sole responsibility is to serve the state's elderly population. It should be noted that the Division of Services to the Aging is not a statutory division. However, the director of the Commission on Aging, who also serves as the director of the division, is appointed pursuant to Article 11 of Title 26 which establishes the Commission on Aging.

The division administers the federal Older Americans Act of 1965 and state grant funds. The Older Americans Act, through its several titles, provides funds for the following purposes: a broad range of social services; nutrition projects in which meals are served; special projects; training of individuals involved in the administration of the Older Americans Act; and administrative expenses. The funds, through an allocation formula, except those funds for nutrition projects, are distributed to eleven sub-state area

CHART I

AN OUTLINE OF SELECTED FEDERAL FUNDING
FOR THE AGED IN COLORADO



agencies on aging who, in turn, contract for the delivery of services with local providers. Providers contract directly with the federal government for nutrition projects. However, the state division plays an important intermediate advisory role in the distribution of nutrition project funds.

Another important responsibility, according to the division, is to provide leadership in the state for all services to older citizens. This responsibility includes coordinating existing resources and services and providing direction in the development of new services and resources to meet the needs of the state's older population. Coordination and cooperative planning has become particularly important to maximize resources which the division indicates are limited and nearly static.

The Division of Services to the Aging is assisted in its responsibilities by the Colorado Commission on Aging, created pursuant to Article 11 of Title 26. In addition to advising the division, the commission is directed by statute to conduct studies related to aging, to assist agencies in coordination and elimination of duplicating efforts, to disseminate information, to review existing programs, and to advise the Governor and General Assembly.

The committee expressed concern that no single agency, either federal or state, is in a position to develop a comprehensive, coordinated service delivery system for programs for the elderly. Some of the possible detrimental effects of a disjointed delivery system are duplication of effort, unidentified service gaps, and underutilization of available resources. The result is an inefficient use of the resources which do exist.

It was further recognized that the Division of Services to the Aging and the Commission on Aging, although responsible for the coordination of services, are limited in the necessary authority to fulfill effectively their coordinating responsibility. However, attempts are underway to coordinate responsibilities both interdepartmentally and within the Division of Services to the Aging.

Interdepartmental coordination is the responsibility of the Human Services Policy Council which has stated, in a memorandum of understanding, that its goal will be to "coordinate the delivery and management of programs for the elderly in order to increase the effectiveness of services to the elderly". The council's objectives are to develop a comprehensive interdepartmental program budget and a state plan for the aging. Participating in these efforts are the directors of the following departments and agencies: Institutions, Education, Health, Labor and Employment, Local Affairs, Office of Human Resources, Office of State Planning and Budgeting, and Social Services.

Spokespersons for the Division of Services to the Aging indicated that the development of an accountable delivery system is underway, and that it is the division's responsibility to "facilitate" the

objectives of the Human Resources Policy Council. These recent efforts taken by the Human Resources Policy Council and the division to improve coordination of delivery of services to the elderly are positive, and any major attempt to reorganize the administration of programs for the elderly at this time could be counter to these efforts.

Three bills are recommended which are designed for immediate assistance to the division. These bills are intended to upgrade the division within the department by providing the elderly with a greater voice in the affairs of the Department of Social Services, and to establish effective lines of communication with the General Assembly concerning problems of the elderly.

Composition of the State Board of Social Services -- Bill 24

This bill would require that one member of the State Board of Social Services be appointed from among the membership of the Colorado Commission on the Aging.

Composition of the Colorado Commission on the Aging -- Bill 25

This bill would place one member from the Senate and one member from the House of Representatives on the Commission on the Aging.

Annual Reports of the Colorado Commission on Aging -- Bill 26

This bill would require the commission to submit an annual report to the Governor and General Assembly.

Transportation

Part of the charge to the committee this interim was a study of the problems faced by elderly persons in obtaining necessary transportation services. Testimony from a representative for the elderly and handicapped community indicated that in the Denver metropolitan area the only reasonably affordable transportation made available to the handicapped and non-ambulatory elderly is the Regional Transportation District's Handyride service. This service is operated door-to-door at 25 cents per trip and persons needing transportation to work, school, and for medical treatment have priority.

According to the spokesman, the Handyride service is hampered by a section of the "Regional Transportation District Act" which requires operation of district vehicles along "prescribed routes". To comply with this section of law, RTD schedules trips for the Handyride service a week in advance and individuals needing transportation must contact RTD in advance to schedule their trip. It was suggested that

if "prescribed routes" was eliminated, the Handyride service could answer demand-response requests for transportation and enable RTD to provide the service to more handicapped and elderly people. On the basis of this testimony, Bill 27 is recommended.

Regional Transportation District -- Bill 27

Bill 27 would amend section 32-9-103 of the "Regional Transportation District Act", by striking the words "along prescribed routes". Removal of the requirement that a mass transportation system must transport the public along prescribed routes would enable RTD to implement a demand-response system for the Handyride buses which serve the handicapped and non-ambulatory elderly.

Related Topics

During the interim testimony was received from individuals and groups involved in programs related to the committee's study topics. One such topic of particular interest warranted committee action and is mentioned in this report although no legislative recommendations are submitted.

Program for Local Service. Representatives of the Colorado Congress of Senior Organizations (CCSO) explained their sponsorship of the Colorado Program for Local Service to the committee. The Program for Local Service (PLS) operates in communities throughout Colorado with stipended volunteers over the age of 55 who serve as referral agents to direct elderly persons to appropriate agencies for assistance. These volunteers mobilize part-time volunteers in each county who are willing to provide such services as carpentry, legal assistance, transportation, and basic home maintenance for senior citizens.

Funding for PLS has been a joint federal, state, and local effort since September 1, 1974, although no state funds are currently allocated to the program. CCSO representatives stated that the PLS program was in jeopardy as of November 1, 1976, because of a change in the federal funding source. Federal funds for PLS have been provided by ACTION since September, 1974, through a demonstration grant which included funds for administration. Under the guidelines of the current grant which began November 1, 1976, expenditures for administration of PLS were disallowed.

The action taken by the committee was to request that the Governor allocate \$50,000 for the administration of the PLS from the Contingencies and Emergencies Fund to match the \$255,000 ACTION grant. The Governor then contacted ACTION and obtained a waiver of guidelines to permit the program to continue in operation until November 1, 1977. The Governor further indicated that he would work with the General Assembly to secure funds for the program for the fiscal year 1977-78.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

BILL 22

A BILL FOR AN ACT

1 CONCERNING STATE EMPLOYEES, AND ELIMINATING THE MANDATORY
2 RETIREMENT THEREOF.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Eliminates mandatory retirement of state employees and allows them to continue their employment as full-time employees at one-half of their regular salary and to receive at the same time the full amount of any retirement benefits then payable without further employee contributions.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 24-50-204, Colorado Revised Statutes 1973, is
5 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 24-50-204. Retirement. (1) Any employee under the state
7 personnel system shall be eligible for retirement upon attaining
8 the age of sixty-five years as provided in this part 2, but such
9 retirement shall not be compulsory. Any such employee, if he so
10 elects, may continue his employment as a full-time state employee
11 at one-half of his regular salary, as defined in section
12 24-51-101 (4), for any length of time for which he continues to
13 meet the standards of performance and conduct specified in

1 section 24-50-116.

2 (2) Any employee electing to continue his employment
3 pursuant to subsection (1) of this section shall also be entitled
4 to receive during such period of continued employment the full
5 amount of any retirement benefits payable to him, but he shall
6 not be entitled to survivor benefits, disability, or
7 superannuation benefits that otherwise would be attributable to
8 such period of employment.

9 (3) Notwithstanding the provisions of section 24-51-104,
10 any employee electing to continue his employment pursuant to
11 subsection (1) of this section shall not be required to make
12 further contributions from his salary to the public employees'
13 retirement fund, and notwithstanding the provisions of section
14 24-51-105, no further state contributions shall be made to such
15 fund based upon the salary paid to such an employee.

16 (4) This section shall not be construed to prohibit the
17 right of a retired employee to be employed in a position not to
18 exceed ninety days per calendar year pursuant to section
19 24-51-134; except that such person may not also elect to continue
20 his employment pursuant to subsection (1) of this section.

21 SECTION 2. 24-50-205, Colorado Revised Statutes 1973, is
22 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

23 24-50-205. State personnel director - notice. Not less
24 than three nor more than six months before an employee attains
25 retirement age, the state personnel director shall notify such
26 employee in writing, informing him of his rights and options
27 pursuant to section 24-50-204.

1 SECTION 3. 24-51-134, Colorado Revised Statutes 1973, is
2 amended to read:

3 24-51-134. Retired state members - employment in position
4 covered by association - when. EXCEPT FOR AN EMPLOYEE ELECTING
5 TO CONTINUE HIS EMPLOYMENT PURSUANT TO SECTION 24-50-204 AND
6 notwithstanding the provisions of section 24-2-103, any state
7 employee retired and receiving benefits under the provisions of
8 this part 1 shall be entitled to be employed in a position
9 subject to the provisions of this article for a period of not to
10 exceed ninety days per calendar year without suspension or
11 reduction of his retirement benefits. For the purposes of this
12 section, any part of a day shall be construed to be a full day,
13 and compensation paid shall not be subject to deductions for
14 retirement benefits, nor shall such member be entitled to
15 survivor benefits, disability, or superannuation benefits that
16 otherwise would be attributable to such period of work.

17 SECTION 4. Safety clause. The general assembly hereby
18 finds, determines, and declares that this act is necessary for
19 the immediate preservation of the public peace, health, and
20 safety.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

BILL 23

A BILL FOR AN ACT

1 CONCERNING BASIC SERVICES FOR THE CATEGORICALLY NEEDY.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that dental care and dentures are included in the basic services for the categorically needy.

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 26-4-105 (1), Colorado Revised Statutes 1973, is
4 amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

5 26-4-105. Basic services for categorically needy. (1)

6 (1) Dental care when needed;

7 (m) Dentures.

8 SECTION 2. Safety clause. The general assembly hereby
9 finds, determines, and declares that this act is necessary for
10 the immediate preservation of the public peace, health, and
11 safety.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

BILL 24

A BILL FOR AN ACT

1 CONCERNING THE COMPOSITION OF THE STATE BOARD OF SOCIAL SERVICES.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires that one member of the state board of social services be appointed from among the membership of the Colorado commission on the aging.

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 26-1-107 (1) (b), Colorado Revised Statutes
4 1973, is amended to read:

5 26-1-107. State board of social services. (1) (b) As
6 vacancies occur, on and after July 1, 1973 1977, appointments
7 shall be made so that ONE OF THE MEMBERS OF THE STATE BOARD SHALL
8 BE APPOINTED FROM AMONG THE MEMBERS OF THE COLORADO COMMISSION ON
9 THE AGING AND three of the members of the state board shall be
10 appointed from among persons who are serving as county
11 commissioners in this state. Whenever a county commissioner
12 serving as a member of the state board ceases to hold the office
13 of county commissioner OR WHENEVER A MEMBER OF THE COLORADO
14 COMMISSION ON THE AGING CEASES TO BE A MEMBER OF SUCH COMMISSION,

1 a vacancy on the state board shall occur, and the governor shall
2 fill the vacancy by the appointment of a SIMILARLY QUALIFIED
3 person who at the time is serving, AS THE CASE MAY BE, as a
4 county commissioner OR AS A MEMBER OF THE COLORADO COMMISSION ON
5 THE AGING. A county commissioner shall not vote on any matter
6 coming before the state board which affects the county in which
7 he is serving as commissioner in a manner different from other
8 counties.

9 SECTION 2. Effective date. This act shall take effect July
10 1, 1977.

11 SECTION 3. Safety clause. The general assembly hereby
12 finds, determines, and declares that this act is necessary for
13 the immediate preservation of the public peace, health, and
14 safety.

COMMITTEE ON HEALTH, ENVIRONMENT
WELFARE, AND INSTITUTIONS

BILL 25

A BILL FOR AN ACT

1 CONCERNING THE COMPOSITION OF THE COLORADO COMMISSION ON THE
2 AGING.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases the number of persons on the Colorado commission on the aging and requires that such additional persons be appointed from among the membership of the senate and house of representatives.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 26-11-101, Colorado Revised Statutes 1973, as
5 amended, is amended to read:

6 26-11-101. Commission created. (1) There is hereby
7 created in the state department the Colorado commission on the
8 aging, referred to in this article as the "commission", which
9 shall consist of ~~eleven~~ THIRTEEN members appointed by the
10 governor, with the consent of the senate. Two members shall be
11 appointed from each congressional district of the state, one of
12 whom shall be from each major political party, and, after July 1,
13 1976, and thereafter when a vacancy occurs, one ~~member~~ OF SUCH
14 CONGRESSIONAL MEMBERS shall be from west of the Continental
15 Divide. One member shall be appointed from the state at large,

1 ONE MEMBER SHALL BE APPOINTED FROM AMONG THE MEMBERSHIP OF THE
2 SENATE, AND ONE MEMBER SHALL BE APPOINTED FROM AMONG THE
3 MEMBERSHIP OF THE HOUSE OF REPRESENTATIVES. Appointments to the
4 commission shall comply with the requirements of the rules and
5 regulations of the United States department of health, education,
6 and welfare promulgated pursuant to Public Law 93-29, known as
7 the "Older Americans Comprehensive Services Amendments of 1973",
8 as such rules and regulations appear in section 903.50 (c) of
9 title 45 of the code of federal regulations.

10 (2) All members of the commission shall be appointed for
11 terms of four years each, commencing July 1 in the year of
12 appointment. Appointments to fill vacancies shall be for the
13 unexpired term of the vacated office and shall be made in the
14 same manner as original appointments. WHENEVER A MEMBER OF THE
15 SENATE OR HOUSE OF REPRESENTATIVES SERVING AS A MEMBER OF THE
16 COMMISSION CEASES TO HOLD HIS OFFICE IN THE SENATE OR HOUSE OF
17 REPRESENTATIVES, A VACANCY ON THE COMMISSION SHALL OCCUR, AND THE
18 GOVERNOR SHALL FILL THE VACANCY BY THE APPOINTMENT OF A SIMILARLY
19 QUALIFIED PERSON WHO AT THE TIME IS HOLDING OFFICE, AS THE CASE
20 MAY BE, IN THE SENATE OR HOUSE OF REPRESENTATIVES.

21 SECTION 2. Effective date. This act shall take effect July
22 1, 1977.

23 SECTION 3. Safety clause. The general assembly hereby
24 finds, determines, and declares that this act is necessary for
25 the immediate preservation of the public peace, health, and
26 safety.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

BILL 26

A BILL FOR AN ACT

1 CONCERNING ANNUAL REPORTS OF THE COLORADO COMMISSION ON THE
2 AGING.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires the Colorado commission on the aging to make an annual report to the governor and the general assembly and specifies certain topics to be included in the report.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 26-11-105 (1) (e), Colorado Revised Statutes
5 1973, is amended to read:

6 26-11-105. Duties of commission. (1) (e) Review existing
7 programs for the aging and make recommendations to the governor
8 and the general assembly for improvements in such programs. SUCH
9 REVIEW AND RECOMMENDATIONS SHALL BE INCLUDED IN AN ANNUAL REPORT
10 TO BE SUBMITTED TO THE GOVERNOR AND THE GENERAL ASSEMBLY BY
11 FEBRUARY 1 OF EACH YEAR AND SHALL INCLUDE, AMONG OTHER TOPICS,
12 AN INVENTORY OF RESOURCES BY AREA, AN ACCOUNTING OF MONIES
13 RECEIVED AND ALLOCATED TO PROGRAMS AND ADMINISTRATIVE COSTS BY
14 AREA, AN INVENTORY OF SERVICES PROVIDED BY AREA, AN

1 IDENTIFICATION OF ESSENTIAL SERVICES NOT PRESENTLY BEING PROVIDED
2 BY AREA, A STATEMENT OF UTILIZATION FOR EACH SERVICE PROVIDED BY
3 AREA, A STATEMENT OF PROCEDURES USED TO EVALUATE EXISTING
4 PROGRAMS, A STATEMENT OF PRIMARY OBJECTIVES OF AREA AGENCIES FOR
5 THE NEXT FISCAL YEAR, AND A STATEMENT OF PRIMARY OBJECTIVES OF
6 THE COMMISSION FOR THE NEXT FISCAL YEAR.

7 SECTION 2. Effective date. This act shall take effect July
8 1, 1977.

9 SECTION 3. Safety clause. The general assembly hereby
10 finds, determines, and declares that this act is necessary for
11 the immediate preservation of the public peace, health, and
12 safety.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

BILL 27

A BILL FOR AN ACT

1 CONCERNING THE MASS TRANSPORTATION SYSTEM OF THE REGIONAL
2 TRANSPORTATION DISTRICT.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Removes the requirement that a mass transportation system must transport the public along prescribed routes.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 32-9-103 (7) (a), Colorado Revised Statutes
5 1973, is amended to read:

6 32-9-103. Definitions. (7) (a) "Mass transportation
7 system" or "system" means any system of the district which
8 transports the general public by bus, rail, air, or any other
9 means of conveyance, or any combination thereof, ~~along-prescribed~~
10 ~~routes~~ within the district, except any railroad subject to the
11 "Federal Railway Labor Act", AS AMENDED, Title 45, U.S.C.

12 SECTION 2. Safety clause. The general assembly hereby
13 finds, determines, and declares that this act is necessary for
14 the immediate preservation of the public peace, health, and
15 safety.